

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

**ALVIN BALDUS, CARLENE BECHEN, ELVIRA
BUMPUS, RONALD BIENDSEIL, LESLIE W.
DAVIS, III, BRETT ECKSTEIN, GLORIA
ROGERS, RICHARD KRESBACH, ROCHELLE
MOORE, AMY RISSEEUW, JUDY ROBSON, JEANNE
SANCHEZ-BELL, CECELIA SCHLIEPP, TRAVIS
THYSSEN, CINDY BARBERA, RON BOONE, VERA
BOONE, EVANJELINA CLEERMAN, SHEILA
COCHRAN, MAXINE HOUGH, CLARENCE JOHNSON,
RICHARD LANGE, and GLADYS MANZANET,**

**Plaintiffs, Case No. 11-CV-562
TAMMY BALDWIN, GWENDOLYNNE MOORE and
RONALD KIND,**

Intervenor-Plaintiffs,

v.

**Members of the Wisconsin Government
Accountability Board, each only in his
official capacity; MICHAEL BRENNAN,
DAVID DEININGER, GERALD NICHOL, THOMAS
CANE, THOMAS BARLAND, and TIMOTHY VOCKE,**

(caption continued on next page)

**VIDEO DEPOSITION OF
JAMES R. TROUPIS
Milwaukee, Wisconsin
February 22, 2012**

**Michelle Hagen
Registered Professional Reporter**

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<p>and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board, Defendants, F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI, PAUL D. RYAN, JR., REID J. RIBBLE, and SEAN P. DUFFY, Intervenor-Defendants.</p> <p>----- VOCES DE LA FRONTERA, INC., RAMIRO VARA, OLGA VARA, JOSE PEREZ, and ERICA RAMIREZ, Plaintiffs,</p> <p>Case No. 11-CV-1011</p> <p>v. Members of the Wisconsin Government Accountability Board, each only in his official capacity; MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and TIMOTHY VOCKE, and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board, Defendants.</p> <p>-----</p> <p>VIDEO DEPOSITION of JAMES R. TROUPIS, taken at the instance of the Plaintiffs, under and pursuant to the provisions of the Federal Rules of Civil Procedure and the acts amended, before me, MICHELLE HAGEN, Registered Professional Reporter and Notary Public in and for the State of Wisconsin, at Godfrey & Kahn, S.C., 780 North Water Street, Milwaukee, Wisconsin, on</p>	<p>1 I N D E X</p> <p>2 WITNESS EXAMINATION PAGE</p> <p>3 JAMES R. TROUPIS By Mr. Earle 7</p> <p>4 By Mr. Poland 158</p> <p>5 By Mr. Hodan 212</p> <p>6 By Mr. Poland 264</p> <p>7 By Mr. Earle 269</p> <p>8 E X H I B I T S</p> <p>9 EXHIBIT NO.: MARKED ID'D</p> <p>10 219 Letter, Troupis to McLeod14 14</p> <p>11 220 Engagement letter38 38</p> <p>12 221 E-mail 77</p> <p>13 222 E-mail, 7/12/1181 81</p> <p>14 223 E-mail chain83 83</p> <p>15 224 E-mail, 7/13/1185 85</p> <p>16 225 12/14/10 document158 158</p> <p>17 226 E-mail chain170 170</p> <p>18 227 E-mail chain175 175</p> <p>19 228 E-mail chain178 179</p> <p>20 229 E-mail184 184</p> <p>21 230 E-mail187 188</p> <p>22 231 E-mail193 193</p> <p>23 232 E-mail chain205 205</p> <p>24 233 Sealed exhibit264 265</p> <p>25 234 E-mail chain273 274</p>
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<p>1 the 22nd day of February, 2012, commencing at 3:34</p> <p>2 o'clock in the afternoon.</p> <p>3 A P P E A R A N C E S</p> <p>4 GODFREY & KAHN, S.C., 780 North Water</p> <p>5 Street, Milwaukee, Wisconsin 53202, by MR. DOUGLAS M.</p> <p>6 POLAND, appeared on behalf of the Baldus Plaintiffs.</p> <p>7 LAW OFFICES OF PETER EARLE, 839 North</p> <p>8 Jefferson Street, Suite 300, Milwaukee, Wisconsin 53202,</p> <p>9 by MR. PETER G. EARLE, appeared on behalf of the Voces de</p> <p>10 la Frontera Plaintiffs.</p> <p>11 REINHART, BOERNER, VAN DEUREN, S.C.,</p> <p>12 1000 North Water Street, Suite 2100, Milwaukee, Wisconsin</p> <p>13 53202, by MR. PATRICK J. HODAN and MS. COLLEEN E.</p> <p>14 FIELKOW, appeared on behalf of the Defendants.</p> <p>15 WISCONSIN DEPARTMENT OF JUSTICE,</p> <p>16 OFFICE OF THE ATTORNEY GENERAL, 17 West Main Street, P.O.</p> <p>17 Box 7857, Madison, Wisconsin 53707-7857, by MS. MARIA S.</p> <p>18 LAZAR, appeared on behalf of the Defendants.</p> <p>19 WHYTE HIRSCHBOECK DUDEK S.C., 555 East</p> <p>20 Wells Street, Suite 1900, Milwaukee, Wisconsin 53202, by</p> <p>21 MR. DONALD A. DAUGHERTY, JR., appeared on behalf of the</p> <p>22 Deponent.</p> <p>23 TROUPIS LAW OFFICE LLC, 7609 Elmwood</p> <p>24 Avenue, Suite 102, Middleton, Wisconsin 53562, by MR.</p> <p>25 BRANDON LEWIS, appeared on behalf of the Deponent.</p>	<p>1 (The original exhibits were attached to the original</p> <p>2 transcript.)</p> <p>3 (The original transcript was sent to Mr. Earle.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: My name is Steve</p> <p>3 Peters, CLVS associated with Halma-Jilek Reporting</p> <p>4 Incorporated, Milwaukee, Wisconsin. This is the</p> <p>5 beginning of the video deposition of James R.</p> <p>6 Troupis on February 22, 2012. The time, 3:34 p.m.</p> <p>7 This is the case concerning Alvin</p> <p>8 Baldus, et al., Plaintiffs, versus Members of the</p> <p>9 Wisconsin Government Accountability Board, et al.</p> <p>10 Defendants, case number 11-CV-562, pending in the</p> <p>11 United States District Court for the Eastern</p> <p>12 District of Wisconsin; also the case of Voces de</p> <p>13 la Frontera, Incorporated, et al., Plaintiffs,</p> <p>14 versus Members of the Wisconsin Government</p> <p>15 Accountability Board, et al. Defendants, case</p> <p>16 number 11-CV-1011, pending in the United States</p> <p>17 District Court for the Eastern District of</p> <p>18 Wisconsin.</p> <p>19 Will counsel now please state their</p> <p>20 appearances. For the Plaintiffs.</p> <p>21 MR. EARLE: On behalf of the Voces de</p> <p>22 la Frontera Plaintiffs, Attorney Peter Earle.</p> <p>23 MR. POLAND: On behalf of the Baldus</p> <p>24 Plaintiffs, Doug Poland.</p> <p>25 MR. HODAN: On behalf of the GAB</p>	<p style="text-align: right;">Page 8</p> <p>1 cycle. You only be experienced each ten years, so</p> <p>2 that's true.</p> <p>3 Q So you're familiar with the law that governs</p> <p>4 redistricting?</p> <p>5 A Reasonably, yes, yes.</p> <p>6 Q Did you ever discuss with any of the legislative</p> <p>7 aides or the legislators or the other attorneys</p> <p>8 involved in representing them --</p> <p>9 A A lot of people.</p> <p>10 Q -- the subject of the citizen voting age</p> <p>11 population of the Latino community in Milwaukee?</p> <p>12 MR. DAUGHTERY: Just for</p> <p>13 clarification, at what point in time are you</p> <p>14 talking about here? At any time in history or --</p> <p>15 MR. EARLE: At any time during the</p> <p>16 redistricting process related to Act 43.</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MR. EARLE:</p> <p>19 Q And when did you have those discussions?</p> <p>20 A I think you said citizen. You mean -- the</p> <p>21 question of citizenship and its relationship to</p> <p>22 the voting age population, that's your question.</p> <p>23 Okay. The first time I actually remember</p> <p>24 discussing it at any length was after the process,</p> <p>25 after the hearings in which I believe you raised</p>
<p style="text-align: right;">Page 7</p> <p>1 Defendants, Attorney Patrick Hodan and Attorney</p> <p>2 Colleen Fielkow from the Reinhart Boerner law</p> <p>3 firm.</p> <p>4 MR. DAUGHTERY: On behalf of the</p> <p>5 witness, Don Daughtery of Whyte Hirschboeck Dudek</p> <p>6 MR. LEWIS: On behalf of the witness,</p> <p>7 Brandon Lewis of Troupis Law Office.</p> <p>8 THE VIDEOGRAPHER: The court reporter</p> <p>9 will now swear in the witness.</p> <p>10 JAMES R. TROUPIS, called as a witness</p> <p>11 herein by the Plaintiffs, after having been first</p> <p>12 duly sworn, was examined and testified as follows:</p> <p>13 EXAMINATION</p> <p>14 BY MR. EARLE:</p> <p>15 Q Welcome to this deposition, Mr. Troupis.</p> <p>16 A Good afternoon.</p> <p>17 Q Am I -- is it correct to say that you are an</p> <p>18 experienced election law lawyer?</p> <p>19 A Reasonable, I suppose.</p> <p>20 Q Okay. You've been involved in a number of</p> <p>21 redistricting efforts; correct?</p> <p>22 A Yes, I have. Yes, I have.</p> <p>23 Q So it's also accurate to say that you are an</p> <p>24 experienced redistricting lawyer?</p> <p>25 A To the extent you can be. It's sort of a ten-year</p>	<p style="text-align: right;">Page 9</p> <p>1 it, Peter, you know, at the hearings. It</p> <p>2 certainly had been certainly talked about before,</p> <p>3 but it wouldn't have been talked in any</p> <p>4 significant way until -- until -- until the</p> <p>5 hearing.</p> <p>6 Q Okay, and so I just wanted to be clear about that.</p> <p>7 Prior to the hearing on July 13, 2011, no one on</p> <p>8 the legal team advising the legislature discussed</p> <p>9 the question of Latino citizen voting age</p> <p>10 population percentages as they pertain to Assembly</p> <p>11 Districts 8 or 9; correct?</p> <p>12 MR. DAUGHTERY: Object to form. Go</p> <p>13 ahead and answer.</p> <p>14 THE WITNESS: I will need to say --</p> <p>15 MR. EARLE: What's wrong with the</p> <p>16 form?</p> <p>17 MR. DAUGHTERY: I think it's compound.</p> <p>18 MR. EARLE: Well, let's break it down.</p> <p>19 THE WITNESS: Sure. I was a little</p> <p>20 concerned but there's -- certainly I'm aware of</p> <p>21 the issue.</p> <p>22 MR. EARLE: And this may be a trial, a</p> <p>23 deposition that's used at trial.</p> <p>24 THE WITNESS: That's fine, and I</p> <p>25 appreciate whatever you need to do.</p>

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<p>1 BY MR. EARLE:</p> <p>2 Q So we don't want to have lingering form questions</p> <p>3 that are not resolved as we go. All right. So</p> <p>4 I'm going to ask you a question about Assembly</p> <p>5 Districts 8 and 9 and the work you did as part of</p> <p>6 the redistricting team related to Assembly</p> <p>7 Districts 8 and 9.</p> <p>8 A Sure.</p> <p>9 Q And the question is --</p> <p>10 A And those are the new districts, the districts as</p> <p>11 designated in the present Act 43.</p> <p>12 Q That's correct.</p> <p>13 A Okay.</p> <p>14 Q And so the question is whether you discussed the</p> <p>15 citizen voting age population of the Latino</p> <p>16 community in the vicinity of those districts with</p> <p>17 any member of the redistricting team prior to the</p> <p>18 passage of Act 43.</p> <p>19 A I don't recall any specific discussion. I just</p> <p>20 simply don't recall it.</p> <p>21 Q Same question with regards to whether the Latino</p> <p>22 community constituted an effective voting majority</p> <p>23 in the vicinity of those districts?</p> <p>24 A Well, we certainly discussed that.</p> <p>25 Q And when did you discuss the question of an</p>	<p>1 been a lot of discovery going on. These are the</p> <p>2 only ones that I've looked at.</p> <p>3 Q But they're all the e-mails you generated;</p> <p>4 correct?</p> <p>5 MR. DAUGHTERY: Generated --</p> <p>6 THE WITNESS: I don't know. I don't</p> <p>7 think so. I mean, I assume there are other</p> <p>8 e-mails and the like that have been produced</p> <p>9 during discovery. This related to the</p> <p>10 attorney-client privilege issues that had been</p> <p>11 raised and that's -- that's the only ones I've</p> <p>12 reviewed.</p> <p>13 BY MR. EARLE:</p> <p>14 Q Okay. Well, we'll come back to this, okay, in</p> <p>15 more detail. I'm going to ask you some questions</p> <p>16 about your recordkeeping.</p> <p>17 A Certainly.</p> <p>18 Q During the time that you participated in this</p> <p>19 redistricting process, what e-mail accounts did</p> <p>20 you use for work related to the redistricting</p> <p>21 process?</p> <p>22 A I would -- I would probably only have used my</p> <p>23 office accounts as far as I know.</p> <p>24 Q What e-mail address is that?</p> <p>25 A Jrtroupis@troupislawoffice.com.</p>
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<p>1 effective voting majority in Assembly</p> <p>2 Districts 8 and 9?</p> <p>3 A Throughout the progress. There wouldn't be any</p> <p>4 specific date that I'd remember because it was</p> <p>5 always a question that we would have been</p> <p>6 concerned with or asked about in terms of those</p> <p>7 districts and the Latino population.</p> <p>8 Q Did you generate any writings related to whether</p> <p>9 there was an effective voting majority in the</p> <p>10 Latino districts?</p> <p>11 A There's a lot of -- I think there's a lot of</p> <p>12 e-mails and like that -- that discuss those sorts</p> <p>13 of issues but I don't recall offhand.</p> <p>14 Q Now, you brought with you some documents today;</p> <p>15 correct?</p> <p>16 A Oh, yeah. The only thing I brought with me were</p> <p>17 the documents that we submitted last night to the</p> <p>18 Court, so that's whatever.</p> <p>19 MR. DAUGHTERY: JRT, Bate stamped JRT</p> <p>20 1 through 127.</p> <p>21 BY MR. EARLE:</p> <p>22 Q And they represent all the documents that are</p> <p>23 related to you that are part of this discovery</p> <p>24 process?</p> <p>25 A I don't have a clue, because there's apparently</p>	<p>1 Q And did you -- did anybody at any point in time</p> <p>2 ask you to assemble all communications related to</p> <p>3 the redistricting process?</p> <p>4 A No.</p> <p>5 Q Okay. Did you receive a letter from Attorney</p> <p>6 McLeod asking you to assemble documents?</p> <p>7 A No.</p> <p>8 Q Did you ever provide Attorney McLeod with</p> <p>9 documents?</p> <p>10 A Yes.</p> <p>11 Q How did you decide what documents to provide</p> <p>12 Attorney McLeod with?</p> <p>13 A On, about January the 8th while I was preparing</p> <p>14 for another major trial, I received a phone call</p> <p>15 from Mr. McLeod. I believe it was Mr. McLeod. It</p> <p>16 could have been is Ray Taffora, but in any event,</p> <p>17 you know, I -- it was ultimately from Eric and</p> <p>18 informing --</p> <p>19 Q Keep going. I'm sorry.</p> <p>20 A He simply -- he had described to me that an order</p> <p>21 had been entered and he asked me to gather</p> <p>22 communications related to third parties that I had</p> <p>23 discussions with.</p> <p>24 Q So did he ask -- and that was not -- so you</p> <p>25 received nothing in writing?</p>

<p style="text-align: right;">Page 14</p> <p>1 A I received nothing. Well, I mean --</p> <p>2 Q It's my understanding that you received something</p> <p>3 in writing and I was informed by --</p> <p>4 A No.</p> <p>5 MR. DAUGHTERY: No, no. There's a</p> <p>6 letter that you wrote back.</p> <p>7 THE WITNESS: I wrote a letter back.</p> <p>8 I apologize. I did write a letter in response to</p> <p>9 the -- that oral request and discussion that had</p> <p>10 been -- that memorializes those discussions and</p> <p>11 what I was providing to Mr. McLeod, who at that --</p> <p>12 so that's -- I did do that.</p> <p>13 MR. EARLE: May I see a copy of the</p> <p>14 letter please?</p> <p>15 THE WITNESS: Certainly.</p> <p>16 MR. EARLE: Can we mark it? Do you</p> <p>17 have another copy?</p> <p>18 MR. DAUGHTERY: We've got several</p> <p>19 copies here.</p> <p>20 (Exhibit No. 219 was marked for</p> <p>21 identification.)</p> <p>22 BY MR. EARLE:</p> <p>23 Q Showing you what's been marked as Exhibit 219, can</p> <p>24 you identify it, please?</p> <p>25 A Yeah. This is the letter that I wrote that we've</p>	<p style="text-align: right;">Page 16</p> <p>1 people that are listed here. That's what I did.</p> <p>2 Q So did you produce documents relative to your</p> <p>3 contacts with Eric McLeod?</p> <p>4 A No. That was not what I was requested to do.</p> <p>5 Q Do you have documents in your possession</p> <p>6 related -- that -- relative -- where you're</p> <p>7 communicating with Eric McLeod about the</p> <p>8 redistricting process?</p> <p>9 A Certainly. Certainly.</p> <p>10 Q And it's your testimony here today that you did</p> <p>11 not produce those documents?</p> <p>12 A I didn't because he would presumably have had</p> <p>13 them, but I wasn't requested to, so I didn't.</p> <p>14 Q And those documents included documents that</p> <p>15 contain political and/or strategic advice about</p> <p>16 the redistricting process; correct?</p> <p>17 A I wouldn't think so, but, you know, I don't know.</p> <p>18 I don't know because I didn't gather them.</p> <p>19 Q Did you gather documents that you sent to</p> <p>20 Scott Fitzgerald about the redistricting process?</p> <p>21 A I candidly don't know that I ever sent anything</p> <p>22 directly to Scott Fitzgerald about the</p> <p>23 redistricting process other than a letter, the</p> <p>24 letter of retention, but no, I wasn't requested to</p> <p>25 do that.</p>
<p style="text-align: right;">Page 15</p> <p>1 just been discussing that I wrote back to</p> <p>2 Mr. McLeod on January the 9th, but he had --</p> <p>3 that -- pursuant to the discussions that we had on</p> <p>4 January the 8th.</p> <p>5 Q I notice at the bottom of the first page you</p> <p>6 indicate that -- that you -- did you withhold any</p> <p>7 documents on the basis of privilege when you</p> <p>8 produced these documents?</p> <p>9 A No, I did not.</p> <p>10 Q Did you withhold any documents on the basis of</p> <p>11 attorney work product potentially?</p> <p>12 A No, I did not.</p> <p>13 Q So it's your testimony here today and you would be</p> <p>14 confident certifying to the United States District</p> <p>15 Court in this case that you have produced every</p> <p>16 single document in your possession that is</p> <p>17 responsive to the request you received from</p> <p>18 Mr. McLeod?</p> <p>19 A The requests that he made, it was responsive to</p> <p>20 the requests he made, yes.</p> <p>21 Q And would you define as precisely as possible the</p> <p>22 request that was made?</p> <p>23 A Well, the letter tries to -- and if it doesn't, I</p> <p>24 apologize. I had been requested to gather</p> <p>25 documents that related to my contacts with the</p>	<p style="text-align: right;">Page 17</p> <p>1 Q I notice that Scott Fitzgerald's name is not on</p> <p>2 this list of individuals with whom you</p> <p>3 corresponded and for whom you produced documents.</p> <p>4 A This is an inclusive list as opposed to an</p> <p>5 exclusive list; that is, everyone included here I</p> <p>6 did the search that's noted on the letter. You</p> <p>7 may assume I did not look for people who are not</p> <p>8 on the list.</p> <p>9 Q So you are not prepared to certify to the Court</p> <p>10 that you have provided all documents relative to</p> <p>11 communications between you and Scott Fitzgerald</p> <p>12 about the redistricting process; is that correct?</p> <p>13 A Presumably, presumably. Anything -- any contacts</p> <p>14 I had with any of the parties here would have</p> <p>15 included -- would have been produced if they were</p> <p>16 to be produced. I haven't had any independent --</p> <p>17 I have no knowledge of an independent contact with</p> <p>18 Scott Fitzgerald or Tad Ottman or Joe Handrick or</p> <p>19 any of the various people that was not sent to</p> <p>20 them or -- and/or copied to Mr. McLeod or</p> <p>21 Mr. Taffora. So presumably they had all of that</p> <p>22 and have produced it. I have no knowledge what</p> <p>23 they did or didn't produce, but I know of no --</p> <p>24 I know of nothing other than to those people</p> <p>25 that -- that wouldn't have been a subject of this.</p>

<p style="text-align: right;">Page 18</p> <p>1 So I've never been asked.</p> <p>2 Q You've never been asked. Okay. Now, Mr. Troupis,</p> <p>3 in this case discovery has dribbled out and --</p> <p>4 A I don't know that, but however you characterize</p> <p>5 it, Peter, is fine.</p> <p>6 Q And you and I are both experienced lawyers and you</p> <p>7 are a collegial guy and as a result we tend to</p> <p>8 fall into a conversational mode where we talk over</p> <p>9 each other, which is normal --</p> <p>10 A I apologize if I'm too formal -- if I'm not formal</p> <p>11 enough.</p> <p>12 Q And poor Michelle sitting here has to take down</p> <p>13 what we're saying. So we should try and constrain</p> <p>14 ourselves. You know, as practitioners I know it's</p> <p>15 hard for us to do when we ourselves are in the</p> <p>16 chair, but maybe if you could try and do that,</p> <p>17 that would be great. Okay, number one.</p> <p>18 And number two, discovery has been</p> <p>19 very frustrating in this case, I'll represent that</p> <p>20 to you, because it's been very difficult to obtain</p> <p>21 documents. The legislature, as characterized by</p> <p>22 the court, has been less than cooperative and less</p> <p>23 than forthright in producing the documents that</p> <p>24 have been sought.</p> <p>25 MR. HODAN: Is there a question?</p>	<p style="text-align: right;">Page 20</p> <p>1 request to you, all we have is your reflection</p> <p>2 upon it in Exhibit 219, you know, so we're going</p> <p>3 to rely on your memory here. Okay? So did you</p> <p>4 search for communications between you and</p> <p>5 Scott Fitzgerald about the redistricting process?</p> <p>6 That's the question. Would you like some water?</p> <p>7 A No, I'm fine. I was just waiting for you to come</p> <p>8 back.</p> <p>9 Q Continue. I can hear.</p> <p>10 A As I think the record reflects, we searched all of</p> <p>11 our files for the individuals noted in this</p> <p>12 exhibit. I can, however, also say that in that</p> <p>13 process I did search my files for anything related</p> <p>14 to Scott or any other leaders simply because I was</p> <p>15 looking for anything. It wasn't because</p> <p>16 Mr. McLeod had or hadn't requested it. So I did</p> <p>17 review all of our paper files. I also reviewed</p> <p>18 all of our Word document, all our PDF documents,</p> <p>19 anything else contained on our servers that I</p> <p>20 thought related to it at that -- at that time.</p> <p>21 So with regard to the majority leader,</p> <p>22 I certainly did look and that's why I answered</p> <p>23 earlier that I didn't recall that there was any</p> <p>24 direct communications at all between me and</p> <p>25 Mr. Fitzgerald. There may have been. I just</p>
<p style="text-align: right;">Page 19</p> <p>1 MR. EARLE: Wait. I'm finishing.</p> <p>2 BY MR. EARLE:</p> <p>3 Q And so I'm putting that down as a context. I'm</p> <p>4 simply trying to determine how close we are to the</p> <p>5 point that we can have a certification that</p> <p>6 discovery is complete. So I'm going to ask you a</p> <p>7 series of questions.</p> <p>8 A Sure --</p> <p>9 Q -- very pointed questions about individuals and</p> <p>10 whether or not documents relative to those</p> <p>11 individuals in the discovery process have been</p> <p>12 produced or not. Okay? So if you can constrain</p> <p>13 your answer, if you can constrain your answer to</p> <p>14 that question, the questions as I phrase them</p> <p>15 narrowly. Okay?</p> <p>16 MR. DAUGHTERY: And just to clarify,</p> <p>17 when you say have been produced in litigation,</p> <p>18 have been produced by Mr. Troupis you're talking</p> <p>19 about; right?</p> <p>20 MR. EARLE: Absolutely.</p> <p>21 THE WITNESS: I don't have any</p> <p>22 knowledge about that.</p> <p>23 BY MR. EARLE:</p> <p>24 Q So, you know, and since we don't have precision</p> <p>25 about how -- the way Eric McLeod characterized his</p>	<p style="text-align: right;">Page 21</p> <p>1 don't remember any. Senator Fitzgerald.</p> <p>2 Q When you performed this search, you did so by way</p> <p>3 of word query?</p> <p>4 A Yes. We aren't that big an office, so it's fairly</p> <p>5 simple. All of the -- all of these matters would</p> <p>6 have subfiles easily, so that's what we did. We</p> <p>7 actually searched all the files I had.</p> <p>8 Q And is one of the means the use of a word query?</p> <p>9 A Right, yes.</p> <p>10 Q Did you use the word query Scott Fitzgerald?</p> <p>11 A I don't recall.</p> <p>12 Q As I understand Exhibit 219, you used word queries</p> <p>13 related to the individuals listed on Exhibit 219;</p> <p>14 correct?</p> <p>15 A Yes, I did.</p> <p>16 Q And is it your testimony here today --</p> <p>17 A I may have used -- I want to be careful because I</p> <p>18 may have used others in addition but I used these</p> <p>19 at a minimum, yes.</p> <p>20 Q Okay. Are you prepared to certify here under oath</p> <p>21 today to the United States Circuit Court, District</p> <p>22 Court for the Eastern District of Wisconsin that</p> <p>23 you have produced every document related to</p> <p>24 communications between you and Scott Fitzgerald in</p> <p>25 the context of this redistricting process?</p>

<p style="text-align: right;">Page 22</p> <p>1 A I'm aware I'm under oath so you don't need to 2 remind me of that. My testimony is is what it is. 3 I searched accordingly and I've described exactly 4 as I have searched. I haven't a clue what you 5 mean by certified, but I did search the files as 6 I've explained and did not find anything related 7 to the majority leader other than, you know, what 8 I've produced here.</p> <p>9 Q Have you produced every document related to 10 communications between you and Robin Vos with 11 regards to the redistricting process?</p> <p>12 A Peter, I don't mean to belabor this. I haven't 13 produced anything in this case. I haven't been 14 involved in this case. Mr. McLeod requested that 15 I provide certain things to him. I provided them 16 to him. So I haven't had any responsibility. 17 I have never seen a document request to my 18 knowledge or otherwise in this case. What you 19 have in front of you is what is the summary of 20 what I produced.</p> <p>21 Q Do you have in your possession any documents 22 reflecting communications between you and 23 Robin Vos about the redistricting process?</p> <p>24 A I can say that I did look at, again, as I was 25 looking at the majority leader, as I told you, no,</p>	<p style="text-align: right;">Page 24</p> <p>1 documents in your possession regarding 2 communications with those individuals have been 3 provided to Eric McLeod for production in this 4 case?</p> <p>5 A I'd answer the same way as before. I mean, I 6 can't. First of all, I don't know what you mean 7 by certified, but I do know that what I provided 8 to him and it's listed here. So I didn't provide 9 him anything with regard to those other 10 individuals, whether I had it or not.</p> <p>11 Q Okay. So the answer to the question about these 12 individuals, Scott Fitzgerald, Jeff Fitzgerald, 13 Senator Zipperer and Robin Vos, is that you don't 14 know whether all the documents in your possession 15 regarding communications about the redistricting 16 process have been produced to Eric McLeod for 17 disclosure to the Court in this case?</p> <p>18 A Because I -- well, that's not what I said. I said 19 as to some of them that I believed I had, that 20 there were none, and as to the others that 21 Mr. McLeod presumably would have them because any 22 communication I had he was copied on, so he would 23 have it.</p> <p>24 But in the course of this inquiry, the 25 one you're asking about now on January the 8th and</p>
<p style="text-align: right;">Page 23</p> <p>1 it was not requested, and I do not recall any 2 direct communications of any sort with Robin Vos.</p> <p>3 Q How about with Senator Zipperer?</p> <p>4 A Senator Zipperer may have been copied on certain 5 communications. My recollection is that he may 6 have been, maybe even some of the ones here. 7 Other than that I didn't make any inquiry into 8 Senator Zipperer, so I don't know.</p> <p>9 Q During the redistricting process, did you 10 communicate with Senator Zipperer?</p> <p>11 A We spoke regularly.</p> <p>12 Q Did you correspond electronically with him?</p> <p>13 A I don't recall that I did. That's why I said that 14 a minute ago. I just don't -- don't recall that I 15 had, but I may have. That's what I'm saying. 16 I just don't recall.</p> <p>17 Q What about representative Jeff Fitzgerald?</p> <p>18 A The speaker would fall in the same category as the 19 majority leader. It would have been rare and I do 20 not recall any direct communication with him other 21 than the letter of retention, by e-mail or 22 otherwise.</p> <p>23 Q So I guess I'm going to ask you the same question 24 as I have about prior individuals. Are you 25 prepared to certify to the Court that all</p>	<p style="text-align: right;">Page 25</p> <p>1 January the 9th, I did not provide him any 2 additional documents, other than -- other than the 3 ones I'm referring to here.</p> <p>4 Q Did Eric McLeod ever come back to you after 5 January 9th and ask you to search for further 6 documents?</p> <p>7 A No.</p> <p>8 Q Did Eric McLeod ever come back to you after 9 January 9 and ask you whether you were sure you 10 had produced all responsive documents to his 11 earlier request?</p> <p>12 A No.</p> <p>13 Q Did you discuss the redistricting process with 14 Scott Walker?</p> <p>15 A Scott Walker, in this redistricting process, 16 because he was supposed to be the primary witness 17 in 2002 in that redistricting process and then he 18 ran for county executive and I lost him as a 19 witness right before the trial. So I am sure over 20 time I have had discussions with the governor but 21 not since he's been governor.</p> <p>22 Q Okay. Well, that's actually -- I thank you for 23 that because I was -- I intended to ask you only 24 about this redistricting process.</p> <p>25 A That's why I did that for you, Peter.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q I appreciate that.</p> <p>2 A No, I have not spoken to the governor since he has</p> <p>3 been elected governor in any respect with regard</p> <p>4 to redistricting.</p> <p>5 Q Okay. Could you identify everybody that you spoke</p> <p>6 to who's an elected official in the legislature</p> <p>7 with whom you spoke, with whom you discussed this</p> <p>8 redistricting process?</p> <p>9 A I don't think I could. I don't think I could</p> <p>10 accurately. You know, I had -- I've had no</p> <p>11 direct -- well, I don't know. I mean, because --</p> <p>12 because, for example, I've appeared at the</p> <p>13 caucuses, and so, you know, various of the hundred</p> <p>14 plus members would have asked questions or not,</p> <p>15 and I mean, I -- I wouldn't -- I couldn't</p> <p>16 accurately tell you that. I don't know.</p> <p>17 Q When you say you appeared at the caucuses, what do</p> <p>18 you mean by that?</p> <p>19 A Well, there's some e-mails here that indicate that</p> <p>20 there were caucus meetings where I would appear</p> <p>21 and answer questions or queries that the caucus</p> <p>22 members might have had.</p> <p>23 Q And these were meetings of the Republican caucus</p> <p>24 you're addressing, you're referring to?</p> <p>25 A Yes, yes.</p>	<p style="text-align: right;">Page 28</p> <p>1 As I understand it, Michael Best was retained by</p> <p>2 the leaders, the respective leaders of the</p> <p>3 assembly and the senate; correct?</p> <p>4 A Yes, they were.</p> <p>5 Q And there was a retainer agreement between</p> <p>6 Michael Best and the majority leader on behalf of</p> <p>7 the legislature; correct?</p> <p>8 A I believe so, yes.</p> <p>9 Q And on behalf of the speaker and that respective</p> <p>10 chamber.</p> <p>11 A I would assume so, yes.</p> <p>12 Q And showing you what's been marked as Exhibit 198.</p> <p>13 MR. DAUGHTERY: Do you have a copy</p> <p>14 I can use? Great, thank you.</p> <p>15 BY MR. EARLE:</p> <p>16 Q This is an exhibit that's been in this case.</p> <p>17 A Okay.</p> <p>18 Q Have you ever seen this before?</p> <p>19 A Don't recall seeing this before. I must have</p> <p>20 because I see that -- I see that under separate</p> <p>21 counsel I'm -- we're listed, Troupis Law Office.</p> <p>22 I just -- I don't remember the letter, that's what</p> <p>23 I'm saying.</p> <p>24 Q So what is your testimony then? You don't</p> <p>25 remember the letter, you may have seen it?</p>
<p style="text-align: right;">Page 27</p> <p>1 Q And who called those meetings?</p> <p>2 A I don't know. I assume the majority leader or the</p> <p>3 speaker.</p> <p>4 Q And where were those meetings held?</p> <p>5 A In the caucus chambers for the assembly and</p> <p>6 senate.</p> <p>7 Q Did you also meet with legislators separate and</p> <p>8 apart from those meetings over at the law offices</p> <p>9 of Michael Best?</p> <p>10 A No. Other than -- other than there were two</p> <p>11 meetings in June, early in June and late in June</p> <p>12 with what I would call the leaders, either the</p> <p>13 speaker, the majority leader, Vos. I don't know</p> <p>14 what his official title is. Senator Zipperer.</p> <p>15 There might have been -- Assemblyman Suder might</p> <p>16 have been involved. Those are all the leaders of</p> <p>17 the two -- the two chambers.</p> <p>18 So those meetings, which are reflected</p> <p>19 in some of these e-mails, did occur over at</p> <p>20 Michael Best's offices. Other than that, I</p> <p>21 honestly don't recall other meetings, although</p> <p>22 maybe there's an e-mail or something that would</p> <p>23 remind me.</p> <p>24 Q I want to get an understanding about how it was</p> <p>25 that the team worked, the legal team worked here.</p>	<p style="text-align: right;">Page 29</p> <p>1 A That's pretty close to what my testimony is.</p> <p>2 I just -- I mean, I would be surprised as I look</p> <p>3 at it that I hadn't seen it, but honestly, I don't</p> <p>4 remember. I don't remember seeing this. So if</p> <p>5 I did, I did.</p> <p>6 Q Did you sign a separate retainer agreement with</p> <p>7 Michael Best?</p> <p>8 A Yes.</p> <p>9 Q Do you have a copy of that with you?</p> <p>10 A No, I don't.</p> <p>11 Q When did you enter into that separate retainer</p> <p>12 agreement with Michael Best?</p> <p>13 A I recall it was about this same time. Now, wait a</p> <p>14 minute, wait a minute, wait a minute. Is there a</p> <p>15 letter -- did we have a retention agreement</p> <p>16 directly -- again, I haven't looked at this in a</p> <p>17 very long time. We may have had a direct letter</p> <p>18 because of the privilege issues with senator --</p> <p>19 the senator and the speaker that reflected how --</p> <p>20 how that relationship was. You would know better</p> <p>21 than I. If you've got it, you've got it. I just</p> <p>22 don't remember. I don't remember the nature of</p> <p>23 the way the retention went forward. I just was</p> <p>24 surprised because I looked at this and I saw that</p> <p>25 I hadn't signed this, and so I thought, well --</p>

<p style="text-align: right;">Page 30</p> <p>1 Q So I -- Mr. Troupis, I don't understand what you 2 just testified to.</p> <p>3 A Well, what I'm saying is I don't remember the 4 sequence of events. I do remember around this 5 time period in January or February that we 6 entered -- we would -- presumably we would have 7 had a letter of retention entered into at about 8 the same time and that we were to be paid out of a 9 trust. That's why you're hearing all this 10 hesitation on my part, is that Michael Best pays 11 us. I don't get paid by the speaker, majority 12 leader or the state. I'm paid by Michael Best. 13 So without those letters in front of me, I don't 14 remember how that retention occurred.</p> <p>15 Q What was the mechanism by which you were paid by 16 Michael Best?</p> <p>17 A We would submit regular invoices to Michael Best 18 and then they would approve them and seek the -- 19 they would review them presumably and then approve 20 them and then the -- they had some arrangement 21 with the speaker and the majority leader where 22 they would approve them or if they didn't approve 23 them we -- presumably we were automatically paid. 24 So we would be paid during the month following our 25 billing based on that process out of the trust</p>	<p style="text-align: right;">Page 32</p> <p>1 A \$375 an hour.</p> <p>2 Q And how much have you been paid as a result of 3 this redistricting process?</p> <p>4 A I checked that before I came over here just to 5 see. Somewhere between 40 and \$50,000.</p> <p>6 Q Okay. That's your total billing for the 7 redistricting?</p> <p>8 A Yes.</p> <p>9 Q And when was the last billing?</p> <p>10 A I believe it was August the 6th was the last time 11 we have had any involvement at all. It was right 12 after the -- just at about the time that the 13 governor signed the bill. My -- my involvement 14 ended with the completion of the legislative 15 process.</p> <p>16 Q Did you provide any advice with regards to how 17 Joe Handrick's time should be billed?</p> <p>18 A I helped negotiate the arrangement with Joe. We 19 go back a long way. He'd been involved in the 20 1990's and again in 2000 and we've stayed I will 21 say close friends. So -- so when Joe went to the 22 Reinhart law firm, you know, it was really 23 important, I thought, given his lengthy experience 24 that he participate. 25 So there's -- so that I just say that</p>
<p style="text-align: right;">Page 31</p> <p>1 account of Michael Best & Friedrich.</p> <p>2 Q So you were paid on the basis of a written 3 invoice?</p> <p>4 A Yes.</p> <p>5 Q And what was the format of this written invoice?</p> <p>6 A It was very simple. It simply reflected the 7 amount of the hours, the dates on which services 8 were provided, and the total.</p> <p>9 Q Did it include -- did it include any descriptors 10 of the services that were provided?</p> <p>11 A Not that I recall.</p> <p>12 Q Was that -- was there an agreement by which you 13 could omit a descriptor, what it was you were 14 doing?</p> <p>15 A Well, no one ever asked for it, so I suppose 16 that's an agreement.</p> <p>17 Q So it would simply list the number of hours for 18 the month or on a daily basis?</p> <p>19 A For the month. It just indicates the days on 20 which services are provided and the total hours 21 and the total amount due.</p> <p>22 Q Okay. And --</p> <p>23 A It may also have costs. If there were some costs 24 incurred, that may be on there also.</p> <p>25 Q And at what rate were you compensated?</p>	<p style="text-align: right;">Page 33</p> <p>1 just to let you know that yes, I was involved with 2 Joe in terms of negotiating whatever and there was 3 a number of proposals going back and forth and 4 eventually the majority leader and speaker chose 5 an arrangement where he was paid on a monthly 6 basis a single amount as a retainer or a payment 7 as I recall.</p> <p>8 Q Were you involved in any decision to -- that -- to 9 the effect that Joe Handrick's billings, invoices 10 should not reflect the substance of what he was 11 doing on a -- as he was working?</p> <p>12 A You know, fairly interpreting your question, 13 I think that's right. I mean, I think that, yeah, 14 yes.</p> <p>15 Q And you did that because you didn't want it to be 16 known -- you didn't want a paper trail, if you 17 will, as to what it was that Joe Handrick was 18 doing in the redistricting process; isn't that 19 correct, sir?</p> <p>20 A No, despite your conspiracy theories. The reason 21 for it was -- and again, there may be e-mails to 22 this effect with the majority leader and speaker. 23 Again, I don't remember how it all transpired, but 24 if Joe had to write everything down and all the 25 stuff he was doing and he had to bill it,</p>

<p style="text-align: right;">Page 34</p> <p>1 I believe that the majority leader and speaker 2 believed it would be a lot bigger bill. 3 And so they believed, given Joe's 4 candid knowledge and honesty and desire to be 5 involved in the process, that they were better off 6 having essentially an unlimited engagement for 7 Mr. Handrick, and I did not disagree with that, 8 that his -- that candidly the amount of hours and 9 the effort that he would put in would far exceed 10 the amount of his monthly retainer and that it was 11 better to do it that way. So I went along with it 12 but it was mostly because I knew that it would be 13 much more expensive if he had gone the other way. 14 Q But it was your suggestion that his -- his time 15 reports not include -- 16 A No. 17 Q -- a descriptor of his work; isn't that true? 18 A I don't recall ever making that recommendation on 19 the -- I don't recall that at all. I recall 20 simply that I agreed with the decision of the 21 speaker and the majority leader that that was a 22 wise use of their funds. I didn't -- I don't know 23 that I ever made a recommendation one way or the 24 other than what I've just testified to. 25 Q Did you negotiate the agreement with the Reinhart</p>	<p style="text-align: right;">Page 36</p> <p>1 remember that, but I -- I don't believe I made a 2 recommendation. I was kind of either way. It 3 didn't matter. 4 Q And the contract with -- Reinhart's contract, who 5 was the other party to the contract that Reinhart 6 entered into? 7 A I'd have to have the contract. Just as with the 8 retainer letter that we just talked about a minute 9 ago from my law firm, I don't know whether the 10 contract was directly with the speaker and the 11 majority leader or whether it was with 12 Michael Best. I just don't remember. 13 Q Okay. We'll pull it out. 14 A If you've got it, it would be easier to just show 15 it to me. That's fine. My memory may not be what 16 it once was. 17 Q I assure you mine is not. 18 A Well, you know, we're of a certain age, Peter. 19 Q I'll match my deterioration rate to anybody's. 20 A As I told you before, coming off, you know, a 21 six-month ordeal and one of the longest trials 22 I've ever been involved in, I could tell you 23 that's certainly where I'm at at the moment. 24 Q With your outcome, I would imagine that would help 25 restore a lot of your memory.</p>
<p style="text-align: right;">Page 35</p> <p>1 law firm for Joe's services? 2 A I wouldn't say I negotiated it but I was involved. 3 Don Millis represented the law firm in that, 4 Reinhart, and there were a number of 5 communications back and forth about what would 6 work and what wouldn't work and what was advisable 7 and what wasn't, but I -- so that's as much as 8 I remember. And again, you may have documents 9 about this. I just don't remember it other than 10 as I've described. 11 Q But the contract was with the Reinhart law firm; 12 correct? 13 A I believe so. 14 Q Did you review the contract with the Reinhart law 15 firm prior to it being approved? 16 A I probably did, yes. I don't remember but I 17 probably did. 18 Q Did you make any recommendations about the nature 19 of that contract with the Reinhart law firm? 20 A Actually I -- I don't remember but I -- I do 21 remember distinctly the discussion that I 22 reflected on just a minute ago with regard to 23 whether it should be on an hourly basis or whether 24 there should be a retainer set and which would be 25 the most efficient use of Joe's time. So I do</p>	<p style="text-align: right;">Page 37</p> <p>1 A I don't need the memory. 2 Q Showing you what's been marked as Exhibit 6 to the 3 Handrick deposition. 4 A Oh, okay. So let's see what Joe said about it. 5 Q You've seen this document before? 6 A I'm sure that I did. I don't remember right now 7 but I'm sure I did. Yeah, I was cc'd on it so 8 I know that I was. 9 Q And this is a follow-up letter concerning the 10 engagement; right? 11 A Yeah, this is the -- this is the engagement we've 12 been discussing. 13 Q Okay. And this indicates that the engagement is 14 by Michael Best & Friedrich and Reinhart Boerner 15 Van Deuren; correct? 16 A Yes, that appears to be correct. 17 Q And this is dated February 18, 2011; correct? 18 A Yes, it is. 19 Q You want to take a moment and review it and see if 20 it refreshes your recollection? 21 A Yeah. Okay. 22 Q How would you characterize the scope of the 23 engagement between Michael Best & Friedrich and 24 Reinhart Boerner Van Deuren regarding the 25 redistricting process?</p>

<p style="text-align: right;">Page 38</p> <p>1 MR. HODAN: Objection, calls for a</p> <p>2 legal conclusion. Subject to that, go ahead.</p> <p>3 THE WITNESS: I don't know because</p> <p>4 I don't have the engagement letter.</p> <p>5 BY MR. EARLE:</p> <p>6 Q Would that help you?</p> <p>7 A Well, yeah. As I said, I don't know.</p> <p>8 MR. EARLE: Let's mark that.</p> <p>9 (Exhibit No. 220 was marked for</p> <p>10 identification.)</p> <p>11 BY MR. EARLE:</p> <p>12 Q Showing you what's been marked as Exhibit 220.</p> <p>13 A Thank you.</p> <p>14 Q Would you take a moment and review that.</p> <p>15 A Okay, I've reviewed it.</p> <p>16 Q You're cc'd on this letter; correct?</p> <p>17 A Yes, yes, I am.</p> <p>18 Q And the cc indicates there was a cc with</p> <p>19 enclosures; correct?</p> <p>20 A That's what it says.</p> <p>21 Q Okay. And -- and this is the engagement letter</p> <p>22 where Michael Best hired the Reinhart law firm on</p> <p>23 behalf of the Wisconsin state senate by its</p> <p>24 majority leader, Scott Fitzgerald and the</p> <p>25 Wisconsin state assembly by its speaker, Jeff</p>	<p style="text-align: right;">Page 40</p> <p>1 hesitated.</p> <p>2 Q With that caveat in mind, it's clear that the</p> <p>3 client on whose behalf the Reinhart law firm was</p> <p>4 hired was the state legislature; correct?</p> <p>5 A That's what it appears to be. Well, not the state</p> <p>6 legislature but, in fact, the -- the Wisconsin</p> <p>7 state senate by its majority leader</p> <p>8 Scott Fitzgerald and the Wisconsin state assembly</p> <p>9 by its speaker, Jeff Fitzgerald.</p> <p>10 Q Those are the clients.</p> <p>11 A That's correct. They are who the clients are.</p> <p>12 Q They are the Reinhart clients in the redistricting</p> <p>13 process; correct?</p> <p>14 A That's a fair statement. Yeah.</p> <p>15 Q Okay. I mean, you agree with that statement</p> <p>16 legally?</p> <p>17 A Yeah. Yeah, that's a fair statement. The</p> <p>18 implication of it may not be fair, and that is</p> <p>19 that Mr. Handrick, Joe, because he's not a partner</p> <p>20 in a law firm, you know, you can't -- my</p> <p>21 understanding under the ethics code and the like</p> <p>22 would not have allowed him to have a direct</p> <p>23 agreement. So he's paid by the Reinhart law firm.</p> <p>24 He's not a lawyer. So there had to be a lawyer</p> <p>25 and a partner in the law firm sign the letter. So</p>
<p style="text-align: right;">Page 39</p> <p>1 Fitzgerald; correct?</p> <p>2 A Is that a statement? I don't know. I mean,</p> <p>3 that's what it appears to be. I got copied on it</p> <p>4 but it certainly appears to be just what you</p> <p>5 described.</p> <p>6 Q Well, the question is is that an accurate</p> <p>7 statement. You were copied -- you were part of a</p> <p>8 negotiation, you said.</p> <p>9 A Yes.</p> <p>10 Q All right. So is it an accurate statement that</p> <p>11 this letter reflects the contract that -- between</p> <p>12 the Reinhart law firm and the Wisconsin state</p> <p>13 legislature as arranged by the Michael Best &</p> <p>14 Friedrich law firm?</p> <p>15 A If you say so. The reason I'm hesitating is</p> <p>16 simply because as you point out, it says with</p> <p>17 enclosures, and I have some recollection, and I</p> <p>18 may be incorrect on this, that Reinhart does</p> <p>19 include some additional materials vis-a-vis the</p> <p>20 relationships and the firms, and I'm also -- so</p> <p>21 that was -- that was the reason I was hesitating.</p> <p>22 It certainly appears to memorialize an</p> <p>23 understanding and agreement consistent with what</p> <p>24 I've just testified to, but there may be other</p> <p>25 piece there may be more to it. That's why I</p>	<p style="text-align: right;">Page 41</p> <p>1 that's all -- I don't -- I don't know how Reinhart</p> <p>2 works, but my assumption, and that's why I was a</p> <p>3 little surprised --</p> <p>4 Q Well, you don't need to speculate in a deposition,</p> <p>5 sir.</p> <p>6 A I'm not trying to, Peter. That's fine. I'm just</p> <p>7 trying to make sure that there's not a</p> <p>8 misunderstanding of why that would be the case.</p> <p>9 Q The core of the question was to identify the</p> <p>10 client and the law firm and you've done that --</p> <p>11 A Yes.</p> <p>12 Q -- and you would like to speculate about other</p> <p>13 aspects of it.</p> <p>14 A In fairness -- in fairness, I have no -- I have no</p> <p>15 ability to authenticate or otherwise address this</p> <p>16 letter. I was copied on this letter. I was not</p> <p>17 involved in writing it. I didn't write it. It</p> <p>18 was written by the parties involved and they were</p> <p>19 signing it. If your objective was to have me</p> <p>20 authenticate it, I can't. I got a copy of it.</p> <p>21 That's all I know. So I'm trying to be as honest</p> <p>22 with you as I can.</p> <p>23 Q That's good.</p> <p>24 A That's --</p> <p>25 Q I appreciate you trying to be as honest as you</p>

<p style="text-align: right;">Page 42</p> <p>1 can. That's the most we can expect under these</p> <p>2 circumstances.</p> <p>3 A Sure.</p> <p>4 Q You, in fact, received it.</p> <p>5 A I assume I did. It says cc'd, so --</p> <p>6 Q Okay. And -- and it's a true and accurate copy of</p> <p>7 the letter you received; correct?</p> <p>8 A I don't have any independent recollection of it</p> <p>9 but I have no reason to doubt that it is.</p> <p>10 Q Okay.</p> <p>11 A It is not a true and accurate -- it's a copy of a</p> <p>12 letter but there were enclosures. So it's not a</p> <p>13 true and accurate copy of everything that was</p> <p>14 there.</p> <p>15 Q It's not a complete.</p> <p>16 A That's fair.</p> <p>17 Q Okay. Do you have the original? Okay. When did</p> <p>18 the contract -- is the contract between the</p> <p>19 Reinhart law firm and the state legislature still</p> <p>20 in effect today?</p> <p>21 MR. DAUGHTERY: Object. I think he's</p> <p>22 indicated he can't necessarily -- I think there's</p> <p>23 a lack of foundation based on his prior testimony,</p> <p>24 but subject to that, go ahead and answer to the</p> <p>25 best of your ability.</p>	<p style="text-align: right;">Page 44</p> <p>1 that context, well, you know, if you're retained</p> <p>2 by the Republican leader or the Republican</p> <p>3 minority leader, for example, who's your client.</p> <p>4 And so that is why I was as careful as I was. So</p> <p>5 it goes back two decades in dealings with the</p> <p>6 legislature and how that -- how that would be</p> <p>7 dealt with.</p> <p>8 And I know that there's, for example,</p> <p>9 been discussions over the years, I remembered this</p> <p>10 from the 2000 cycle, where various members of the</p> <p>11 other party, for example, would send a letter and</p> <p>12 say you represent me. And, you know, if I was</p> <p>13 representing the then speaker or the majority</p> <p>14 leader at the time, my attitude was no, I don't,</p> <p>15 but that's why I was very careful. I try to be</p> <p>16 careful in that respect.</p> <p>17 Q It's not your position that Reinhart's client was</p> <p>18 the caucus; correct?</p> <p>19 A I'm sorry, I don't understand the question.</p> <p>20 Q The -- when we -- when we have the words that</p> <p>21 Reinhart's client was the Wisconsin state senate</p> <p>22 by its majority leader Scott Fitzgerald, the</p> <p>23 client of the Reinhart law firm was not the</p> <p>24 Republican caucus of the legislature.</p> <p>25 A Correct. You asked me the history -- you asked me</p>
<p style="text-align: right;">Page 43</p> <p>1 THE WITNESS: I don't know. There's a</p> <p>2 provision in here, for example, that allows for</p> <p>3 termination at any time. I don't know whether</p> <p>4 it's terminated or not. As I told you, I hadn't,</p> <p>5 practically speaking, been involved since August</p> <p>6 of last year.</p> <p>7 BY MR. EARLE:</p> <p>8 Q I was curious, when you -- you qualified the</p> <p>9 answer and I asked you to identify the client, I</p> <p>10 referred to the legislature and you qualified the</p> <p>11 answer as the Wisconsin state senate by its</p> <p>12 majority leader Scott Fitzgerald and the Wisconsin</p> <p>13 state assembly by its speaker Jeff Fitzgerald.</p> <p>14 A Correct.</p> <p>15 Q I appreciate the precision. Would you explain to</p> <p>16 me what you mean by that.</p> <p>17 A Well, there's been -- there's been</p> <p>18 misunderstandings over the years going back to the</p> <p>19 early 1990's about who and -- who is being</p> <p>20 retained by whom when it comes to the senate and</p> <p>21 assembly, and that's the reason I qualified it.</p> <p>22 There's been various permutations of that.</p> <p>23 You may remember in the 1990's that</p> <p>24 each -- there was a long debate about the</p> <p>25 caucuses, and the question I recall came up in</p>	<p style="text-align: right;">Page 45</p> <p>1 why I was so precise, and I was simply explaining</p> <p>2 there's a -- there's been a historical anomaly</p> <p>3 that began with the caucuses in the nineties and</p> <p>4 then in the 2000 cycles that, you know, has arisen</p> <p>5 from time to time, and I'm sure it's arisen on the</p> <p>6 other side as well.</p> <p>7 The Democrats, for example, you know,</p> <p>8 they would often have counsel and this question</p> <p>9 might have -- I assume came up for them as well in</p> <p>10 that -- in the last ten years. So that's why</p> <p>11 I was trying to be precise because there's --</p> <p>12 because I don't know -- I'm not trying to say that</p> <p>13 there's something beyond what's stated in the</p> <p>14 letter as the client.</p> <p>15 Q Okay. Well, let's just try to nail this down as</p> <p>16 clearly as we can.</p> <p>17 A Sure.</p> <p>18 Q We have -- Reinhart has its client. It's</p> <p>19 basically the state legislature through the</p> <p>20 leadership of that legislature; correct?</p> <p>21 A I think that's a misstatement because it</p> <p>22 implies -- and the reason it's a misstatement is</p> <p>23 because it implies that you -- that each and every</p> <p>24 member of the legislature would somehow be able to</p> <p>25 call upon Reinhart for services, and that would be</p>

<p style="text-align: right;">Page 46</p> <p>1 incorrect because the -- the senate or in the -- 2 I think you used the senate in Wisconsin, state 3 senate, by the majority leader is the client, 4 not -- not each and every member of the senate. 5 That would be my ethical view of it. 6 Q Okay. So let me see if I understand this 7 correctly. Reinhart's client in the redistricting 8 process was the senate by -- through the leader of 9 the senate; correct? 10 A By the leader, yes. 11 Q All right. 12 A Yes. 13 Q And your client was the same client; correct? 14 A I think that's accurate, yes. 15 Q And Michael Best's client was the same client; 16 correct? 17 A I believe that's accurate. 18 Q So we had three law firms representing the senate 19 and the assembly by the leadership of each 20 respective chamber. 21 A That seems accurate. 22 Q So your firm was co-counsel with the Reinhart firm 23 and co-counsel with the Michael Best firm; 24 correct? 25 MR. HODAN: Objection.</p>	<p style="text-align: right;">Page 48</p> <p>1 that are attached and in the cc lines it shows 2 Joe Handrick and it refers to meetings with 3 Joe Handrick. I mean, every -- everything in 4 Exhibit 220 is relative to Joe Handrick. Not to 5 put a fine point on it, but that all indicates 6 that it was Joe Handrick. But -- so -- 7 MR. EARLE: Let me take a quick break 8 here for a second. 9 THE WITNESS: Sure. 10 THE VIDEOGRAPHER: We are going off 11 the record at 4:29 p.m. 12 (A recess was taken.) 13 THE VIDEOGRAPHER: We are back on the 14 record at 4:37 p.m. 15 BY MR. EARLE: 16 Q Some more basic fundamentals. 17 A Certainly. 18 Q Who was the leader of this legal team representing 19 the legislature in the redistricting process? 20 A Well, you'd probably get different opinions from 21 different people. You know, how many lawyers can, 22 you know, claim to be the leader. You know, 23 I don't think there was any specific person 24 designated. You know, we had myself and Eric 25 McLeod and then Ray Taffora, so --</p>
<p style="text-align: right;">Page 47</p> <p>1 THE WITNESS: That's a -- slightly 2 different and it has to do with the question of 3 co-counsel. You know, what's a counsel. As I 4 explained earlier, the problem with regard to 5 Joe Handrick is that he's not a lawyer, and so the 6 retention of the Reinhart firm was for services 7 from Joe Handrick, not as a lawyer. So I would 8 never have considered him a co-counsel, nor would 9 I have considered even Reinhart a co-counsel in 10 that representation, though they may technically 11 have been as you describe. But I don't want to -- 12 I wouldn't say that because Joe was the reason 13 that retention was going forward. 14 BY MR. EARLE: 15 Q Show me where in Exhibit 220 that distinction 16 evident. 17 A I don't think it is. That's why I said it. 18 Q Show me where in the clarification to Exhibit 220, 19 which is Exhibit 219, that distinction is evident. 20 MR. DAUGHTERY: To make clear, these 21 are -- at least document number 220 is incomplete 22 because there are enclosures that are noted that 23 are not here. But subject to that, go ahead and 24 answer, Mr. Troupis. 25 THE WITNESS: Well, on the e-mails</p>	<p style="text-align: right;">Page 49</p> <p>1 Q Were you the -- well, generally there's a senior 2 member of a team who calls the shots when shots 3 need to be called, and -- 4 A It would be a bit arrogant of me to say I was the 5 leader because I don't think there was any such 6 designation, but I clearly had the most experience 7 on the team. 8 Q Okay. And when there were questions that needed 9 to be decided and there were divergent views, who 10 made the final call? 11 A The speaker or majority leader. 12 Q All right. Did there ever come a time where 13 divergent views were presented to the speaker or 14 majority leader and they made a call between the 15 divergent views? 16 A I can't remember. I can't remember any, and the 17 reason for that -- I mean, I can give you the 18 reason if you'd like, is that, you know, we had 19 worked together -- I was with Michael Best & 20 Friedrich for almost 25 years and Joe Handrick had 21 worked before with me and Eric, so -- and Ray. So 22 it was unlikely that there would be serious 23 divergence of views among us. 24 So that when I say that, even though 25 lawyers may be quite contentious, the reality is</p>

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<p>1 we've known each other for two decades and I</p> <p>2 wouldn't expect contentiousness.</p> <p>3 Q So it's fair to say that you were a party to every</p> <p>4 major decision that was made by the legal team; is</p> <p>5 that correct?</p> <p>6 A That would not be correct, and there's a lot of</p> <p>7 good reasons for that.</p> <p>8 Q Such as?</p> <p>9 A I'm a very small office and I had left</p> <p>10 Michael Best & Friedrich in the summer of 2010.</p> <p>11 And so the redistricting remained at Michael Best</p> <p>12 & Friedrich's offices. As you know, they had</p> <p>13 space there. They would have -- they would have</p> <p>14 had regular access to the people involved on a</p> <p>15 daily basis; I would not.</p> <p>16 It starts with that and it continues</p> <p>17 to the fact that in the fall I had been retained</p> <p>18 by Sandisk as their lead trial counsel on some</p> <p>19 very significant litigation in the fall of 2011</p> <p>20 which proceeded into February of 2010 in the</p> <p>21 Western District. And then I was retained -- then</p> <p>22 I participated very publicly in matters related to</p> <p>23 the senators leaving the state, and so it's a</p> <p>24 matter of public record that I was involved in</p> <p>25 that.</p>	<p>1 specific -- what I would characterize as major</p> <p>2 decisions that I wasn't consulted on, but --</p> <p>3 Q Well, let's take some decisions --</p> <p>4 A Sure, sure.</p> <p>5 Q -- and figure out who made those decisions.</p> <p>6 A I told you --</p> <p>7 Q How much ownership you want to --</p> <p>8 A Without being arrogant or otherwise or too humble,</p> <p>9 I'll try to answer your question.</p> <p>10 Q You want to find a balance between arrogance and</p> <p>11 humility?</p> <p>12 A Somewhere between my Catholic guilt and you know</p> <p>13 what I can and can't say, I'll do my best.</p> <p>14 Q All right. Let's start with the decision to -- to</p> <p>15 locate the redistricting staffing process in the</p> <p>16 law firm of Michael Best. Who made that decision?</p> <p>17 A Again, the speaker and majority leader but there</p> <p>18 was a precedent for it because that --</p> <p>19 Q Go ahead.</p> <p>20 A The precedent involved me. That's why I was going</p> <p>21 to say that, I was going to add that is that in</p> <p>22 the year 2000, 2001, 2002, in the prior</p> <p>23 redistricting where we represented, when I was at</p> <p>24 Michael Best, Scott Jensen and Mary Panzer, we had</p> <p>25 located the team in the Michael -- in Michael Best</p>
Page 51	Page 53
<p>1 And then immediately on the heels of</p> <p>2 that, I was on my way to Australia early in April</p> <p>3 and got off a plane at the request of Mr. Justice</p> <p>4 Prosser to represent him as lead counsel for the</p> <p>5 recount, and that recount did not end until</p> <p>6 sometime in late May. During that time period</p> <p>7 there was a great deal that went on and I simply</p> <p>8 would not have been available.</p> <p>9 Q Did you make -- in that -- when you were retained</p> <p>10 by Justice Prosser to represent him in the recall,</p> <p>11 did you make the decision to hire Ken Mayer?</p> <p>12 A Yes, I did.</p> <p>13 Q Now, getting back to this question of the team, so</p> <p>14 is it your testimony that the -- the major</p> <p>15 day-to-day decisions in terms of the operation of</p> <p>16 the team were in the hands of Eric McLeod?</p> <p>17 A No, that would not be my testimony. The -- what</p> <p>18 you describe as major and not major, I mean, who</p> <p>19 knows? My testimony I -- I hope was that on a</p> <p>20 daily basis there were decisions that would be</p> <p>21 made of all types, and I wasn't around. So I</p> <p>22 might have been copied on them, I might have been</p> <p>23 told about them, but there are only so many hours</p> <p>24 in the day and I've described to you my schedule</p> <p>25 during that time period. I don't recall</p>	<p>1 space. We had rented space to them.</p> <p>2 So when that came around again, I was</p> <p>3 still at Michael Best in 2010 and I'm sure -- and</p> <p>4 I'm sure that there were discussions at that time</p> <p>5 that I participated in to have them located again</p> <p>6 there because it was such an efficient way of</p> <p>7 dealing with this matter.</p> <p>8 Q So you replicated the Jensen model.</p> <p>9 A Well, we replicated the Michael Best model.</p> <p>10 I don't think that that was Scott's decision at</p> <p>11 the time back in 2001. So I wouldn't characterize</p> <p>12 that. Certainly from Michael Best's perspective</p> <p>13 where there's so much potential involvement and</p> <p>14 you need to be across the street from the Capitol,</p> <p>15 that's what we did.</p> <p>16 Q So in 2012 it was the legislative leadership's</p> <p>17 decision but in 2002 it was Michael Best's</p> <p>18 decision. So Scott Jensen didn't have anything to</p> <p>19 do with it in 2002 but the Fitzgeralds had</p> <p>20 everything to do with it in 2012.</p> <p>21 MR. HODAN: You mean 2011?</p> <p>22 MR. EARLE: 2011, yes.</p> <p>23 THE WITNESS: I don't think that's</p> <p>24 what I said, but I was trying to -- I was trying</p> <p>25 to be again very careful that you not think that I</p>

<p style="text-align: right;">Page 54</p> <p>1 wasn't involved in decision-making. That's all</p> <p>2 I was trying to do. I was just trying to,</p> <p>3 because -- because I was at Michael Best in 2010</p> <p>4 when those decisions were discussed, which were</p> <p>5 then went into effect in 2011. That was what</p> <p>6 I was trying to communicate. If I didn't do so, I</p> <p>7 apologize.</p> <p>8 BY MR. EARLE:</p> <p>9 Q That's why I got a little confused.</p> <p>10 A I apologize. I wasn't trying to.</p> <p>11 Q That's all right. You don't need to apologize but</p> <p>12 you do need to help me understand.</p> <p>13 A Sure.</p> <p>14 Q All right. So in 2002 or perhaps it was 2001, you</p> <p>15 and Scott Jensen decided that the redistricting</p> <p>16 process should be housed at Michael Best. Is that</p> <p>17 right or not right?</p> <p>18 A You know, it was probably relatively speaking</p> <p>19 accurate. You know, Scott and Mary both and --</p> <p>20 and at the time John McGiver, who was still alive</p> <p>21 at Michael Best, who had a very close relationship</p> <p>22 with those folks. So there were a fair number of</p> <p>23 people involved in the decision. That's why --</p> <p>24 that's why I questioned, you know, using Mr. --</p> <p>25 then Speaker Jensen as sort of whipping boy. He</p>	<p style="text-align: right;">Page 56</p> <p>1 and who else?</p> <p>2 A Senator Panzer.</p> <p>3 Q Senator Panzer make the decision to house the</p> <p>4 redistricting process at Michael Best & Friedrich</p> <p>5 and you found it to be an efficient process; is</p> <p>6 that correct?</p> <p>7 A Yes, that's accurate.</p> <p>8 Q And then in 2011 you make the decision -- the</p> <p>9 speaker makes the decision to do that again;</p> <p>10 correct?</p> <p>11 A Yes. That's when they signed the agreements, as I</p> <p>12 understand. That's the best I can remember, yes.</p> <p>13 Q He signed what agreements?</p> <p>14 A Well, whatever agreements that allowed them to be</p> <p>15 over at the law offices. I mean, there were</p> <p>16 retention agreements and the like that went</p> <p>17 forward that allowed them to be in the offices.</p> <p>18 I assume there's some documents. I don't know.</p> <p>19 Q Have you seen documents that allow them to be in</p> <p>20 the offices over at Michael Best & Friedrich?</p> <p>21 A Actually I don't. No, I haven't, because I had</p> <p>22 left there by then. I had left Michael Best by</p> <p>23 the time that arrangement for those office space</p> <p>24 came into being.</p> <p>25 Q Based on your knowledge of how Michael Best</p>
<p style="text-align: right;">Page 55</p> <p>1 was involved in the decision-making and -- and --</p> <p>2 Q How is he being used as a whipping boy?</p> <p>3 A Well, I read the newspapers, so I see how he's</p> <p>4 used as a whipping boy.</p> <p>5 Q But how does that relate to the questions I've</p> <p>6 asked you?</p> <p>7 MR. DAUGHTERY: I think it was</p> <p>8 because --</p> <p>9 THE WITNESS: Because you referred to</p> <p>10 it as Jensen's decision.</p> <p>11 MR. DAUGHTERY: The Jensen model, I</p> <p>12 think, was I believe the statement which I'd</p> <p>13 object to.</p> <p>14 THE WITNESS: And that's why when you</p> <p>15 used the term Jensen model or whatever it was, I</p> <p>16 took umbrage at that because I don't think that's</p> <p>17 a correct characterization. And I am aware,</p> <p>18 because I live in the state and despite my</p> <p>19 personal enormous respect for Scott Jensen, that</p> <p>20 he has become a whipping boy to the press and</p> <p>21 otherwise. So if -- if I bristled at that, it was</p> <p>22 in part because of my enormous respect for the</p> <p>23 former speaker.</p> <p>24 BY MR. EARLE:</p> <p>25 Q All right. So in 2001, 2002, McGiver, you, Jensen</p>	<p style="text-align: right;">Page 57</p> <p>1 operates and how you operated in 2001, 2002, you</p> <p>2 assume that the normal -- in the normal course of</p> <p>3 business there would have been agreements that</p> <p>4 allowed Ottman and Foltz and the -- and the --</p> <p>5 A Handrick.</p> <p>6 Q And Handrick from Reinhart to be in the</p> <p>7 Michael Best office.</p> <p>8 A To house that, yes, I assume so.</p> <p>9 Q And who would be a party to those agreements?</p> <p>10 A Well, again, I would speculate it would be the --</p> <p>11 the law firm and the speaker and majority leader.</p> <p>12 Q I don't want you to speculate.</p> <p>13 A You asked me about my experience. That's the only</p> <p>14 experience I have. I have no independent</p> <p>15 knowledge, none, zero.</p> <p>16 Q I'm asking you based on your experience --</p> <p>17 A Okay.</p> <p>18 Q -- and knowledge of what the normal course of</p> <p>19 business is --</p> <p>20 A Yes.</p> <p>21 Q -- having gone through it once before --</p> <p>22 A Yes.</p> <p>23 Q -- what do you assume the process would have been.</p> <p>24 MR. DAUGHTERY: Object. I don't know</p> <p>25 if there's a foundation, but subject to that, go</p>

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<p>1 ahead and answer.</p> <p>2 THE WITNESS: My expectation would be</p> <p>3 that there would be some kind of arrangement that</p> <p>4 would have some kind of written confirmation about</p> <p>5 their being located in the Michael Best space.</p> <p>6 BY MR. EARLE:</p> <p>7 Q And who would have been the signatures to that</p> <p>8 agreement?</p> <p>9 MR. DAUGHTERY: Same objection.</p> <p>10 THE WITNESS: I seriously don't have a</p> <p>11 clue. Likely a partner of Michael Best &</p> <p>12 Friedrich, I assume.</p> <p>13 BY MR. EARLE:</p> <p>14 Q Who made the decision that each of the -- of the</p> <p>15 three, Foltz, Ottman and Handrick, would be</p> <p>16 provided with stand-alone computers over at</p> <p>17 Michael Best & Friedrich?</p> <p>18 A I don't know.</p> <p>19 Q Do you know whether Foltz, Ottman and Handrick</p> <p>20 signed secrecy agreements about the redistricting</p> <p>21 process?</p> <p>22 A I don't know.</p> <p>23 Q Did you discuss having Foltz, Ottman and Handrick</p> <p>24 sign secrecy agreements?</p> <p>25 A I don't recall any such agreements, any such</p>	<p>1 Q Okay. There was a decision, would you agree that</p> <p>2 there was a decision to conduct the redistricting</p> <p>3 process at Michael Best & Friedrich under a cloak</p> <p>4 of secrecy?</p> <p>5 A No, I would not.</p> <p>6 MR. DAUGHTERY: Object to the form.</p> <p>7 Object to the characterization of cloak of</p> <p>8 secrecy, but subject to that, he's answered</p> <p>9 already.</p> <p>10 THE WITNESS: I would not use that</p> <p>11 term.</p> <p>12 BY MR. EARLE:</p> <p>13 Q You would not use that term, and why would you not</p> <p>14 use that term?</p> <p>15 A Because everyone in Madison, everyone at the</p> <p>16 legislature knew precisely what was going on</p> <p>17 because they had to. Those computers and the</p> <p>18 like, as I understood it, were either owned by or</p> <p>19 controlled by the state. So there were --</p> <p>20 virtually everybody who needed to know would have</p> <p>21 known about that. So I would certainly not -- it</p> <p>22 was no secret.</p> <p>23 Q It's your understanding that the computers at</p> <p>24 Michael Best & Friedrich were owned by the state?</p> <p>25 A Well, I understood they were using programs that</p>
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<p>1 discussions. They could have occurred. I just</p> <p>2 don't recall.</p> <p>3 Q Were you involved in the decision to have</p> <p>4 individual legislators sign secrecy agreements?</p> <p>5 A I don't think I was, but I -- if there's an e-mail</p> <p>6 or something. I don't remember being participant</p> <p>7 in that.</p> <p>8 Q Were you consulted about whether the individual</p> <p>9 legislators should sign secrecy agreements before</p> <p>10 any information would be provided to them about</p> <p>11 the redistricting process?</p> <p>12 A Not that I recall.</p> <p>13 Q Who made that decision?</p> <p>14 A I don't know.</p> <p>15 Q So just so -- I want to relate this back to how</p> <p>16 the team operated, okay? There were auton --</p> <p>17 independent decisions being -- strike that. Let</p> <p>18 me rephrase it. There were independent decisions</p> <p>19 being made about how the -- how the legislative</p> <p>20 process was going to go forward that you were not</p> <p>21 a party to?</p> <p>22 A I don't know if I'd go that far. There were</p> <p>23 process issues that certainly on a day-to-day</p> <p>24 basis would have been resolved without my</p> <p>25 participation.</p>	<p>1 the state provided.</p> <p>2 Q Who owned the hardware?</p> <p>3 A I speculated when I said that. I don't know who</p> <p>4 owned the exact hardware. Certainly there's a</p> <p>5 record of that somewhere. I don't know.</p> <p>6 Q Mr. Troupis, I understand that this is a complex</p> <p>7 set of facts and --</p> <p>8 A You're asking about contractual agreements and</p> <p>9 that's why I --</p> <p>10 Q And this is a -- but this is a complex set of</p> <p>11 facts and there's a lot of controversy associated</p> <p>12 with this case. So it's important that we be</p> <p>13 precise, because we're going to trial tomorrow.</p> <p>14 And so where are you -- sometimes in conversation</p> <p>15 speculation can enter and it's good faith</p> <p>16 speculation, but we need to know when you're</p> <p>17 speculating and when you're testifying about what</p> <p>18 you know. So I need that distinction clear on the</p> <p>19 record.</p> <p>20 Do you know who owned the computers</p> <p>21 that Tad Ottman, Adam Foltz and Joe Handrick were</p> <p>22 working on at the law firm in Michael Best?</p> <p>23 A I do not know that.</p> <p>24 Q Do you know who made the decision to have every</p> <p>25 legislator sign a secrecy agreement before they</p>

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<p>1 could enter the law firm and obtain any</p> <p>2 information about the redistricting process?</p> <p>3 A I neither know the predicate to that and I</p> <p>4 certainly don't know that.</p> <p>5 Q Well, let's focus on the predicate, okay? It's</p> <p>6 your testimony that you do not know whether or not</p> <p>7 individual legislators were required to sign</p> <p>8 secrecy agreement before they could obtain</p> <p>9 information about the redistricting process at</p> <p>10 Michael Best & Friedrich?</p> <p>11 A As you've defined the term, no, I don't know that.</p> <p>12 Q And nothing that you did during the redistricting</p> <p>13 process puts you in direct contact with any</p> <p>14 information about that?</p> <p>15 A No. I certainly was in contact with regard to</p> <p>16 information about that.</p> <p>17 Q So it's your testimony that this was entirely</p> <p>18 Eric McLeod's doing.</p> <p>19 A No, that's not my testimony at all.</p> <p>20 Q Have you seen the individual secrecy agreements?</p> <p>21 A Not that I recall.</p> <p>22 Q Okay. We'll come back to that. We're getting</p> <p>23 copies of the agreements.</p> <p>24 A Great. Maybe it will remind me.</p> <p>25 Q Well, have you read about that in the paper?</p>	<p>1 want, to ask them not to be discussing those</p> <p>2 discussions with other members of the legislature,</p> <p>3 because otherwise you would be herding cats. You</p> <p>4 would have everybody concerned about what's going</p> <p>5 on in Sheboygan when they live in La Crosse</p> <p>6 because that's the nature of the legislature.</p> <p>7 Q So it's your testimony that you had legislators</p> <p>8 sign secrecy agreements in 2001 and 2002?</p> <p>9 A I don't recall. First of all, I'd call them</p> <p>10 confidentiality agreements, and second, I don't</p> <p>11 recall signing documents. I just don't recall</p> <p>12 that. You certainly would ask the legislators not</p> <p>13 to discuss it with any other member of the</p> <p>14 legislature until such time as the entire plan is</p> <p>15 resolved, because otherwise it cannot work. It</p> <p>16 simply cannot work.</p> <p>17 Q I'm confused by your testimony but it's easy to</p> <p>18 confuse me, so let's -- let's try to unconfuse me</p> <p>19 here. You said you were not surprised when you</p> <p>20 read about the secrecy agreements.</p> <p>21 A The confidentiality agreements. I believe you're</p> <p>22 calling them secrecy agreements. I'm curious what</p> <p>23 they're titled, so I'll be interested to see.</p> <p>24 Q But you know what I mean when I say secrecy</p> <p>25 agreements.</p>
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<p>1 A Yes, I've read about that in the paper.</p> <p>2 Q Were you surprised when you read about that in the</p> <p>3 paper?</p> <p>4 A No.</p> <p>5 Q You weren't surprised?</p> <p>6 A No.</p> <p>7 Q Why weren't you surprised?</p> <p>8 A Because that's the way the process has gone</p> <p>9 forward in the past.</p> <p>10 Q Is it your testimony that you've been involved in</p> <p>11 other legislative activity where secrecy</p> <p>12 agreements are signed by legislators?</p> <p>13 A First of all, I wouldn't call it a secrecy</p> <p>14 agreement. I would call them confidentiality</p> <p>15 agreements and I would say that when one gets to</p> <p>16 redistricting, because of the nature of the</p> <p>17 relationship of legislators to each other, it's</p> <p>18 extraordinarily important not to have legislators</p> <p>19 concerned about a district that's on the other</p> <p>20 side of their state.</p> <p>21 And so it is the normal process and I</p> <p>22 presume it would be the normal process on both</p> <p>23 sides of the aisle, Democrat or Republican, that</p> <p>24 they would attempt to, during the process of</p> <p>25 talking to legislators to understand what they</p>	<p>1 A I've been a trial lawyer a long time. I know what</p> <p>2 you mean by secret versus confidential, but that's</p> <p>3 okay. Call them what you will. I understand what</p> <p>4 the agreements are that you're talking about.</p> <p>5 Q Is there a substantive difference between the</p> <p>6 words that we're using?</p> <p>7 A Enormous difference between secret and</p> <p>8 confidential, yes, an enormous, enormous</p> <p>9 pejorative difference and rhetorical difference.</p> <p>10 One will use the term "secret" to connote</p> <p>11 something improper and one will use the term</p> <p>12 "confidential" to connote something very proper</p> <p>13 and is common in the workplace.</p> <p>14 Q So when we have a federal statute that deals with</p> <p>15 the secret matters, that's pejorative?</p> <p>16 A No, not at all. There are trade secret matters,</p> <p>17 of course.</p> <p>18 Q So it's not pejorative in a trade secret context.</p> <p>19 A No.</p> <p>20 MR. DAUGHTERY: Object to the form as</p> <p>21 to relevance.</p> <p>22 THE WITNESS: Context. Context.</p> <p>23 MR. EARLE: I made the mistake of</p> <p>24 following the witness into this discussion.</p> <p>25 THE WITNESS: You did, Peter. You</p>

<p style="text-align: right;">Page 66</p> <p>1 know better than that.</p> <p>2 BY MR. EARLE:</p> <p>3 Q I'm dealing with a very experienced litigator</p> <p>4 here. I recognize that. Okay. But I guess what</p> <p>5 I'm confused about is, as I understand your</p> <p>6 testimony, you were not surprised about it when</p> <p>7 you read about it in the newspapers because you</p> <p>8 considered it to be a normal thing and then you</p> <p>9 made a reference to the prior --</p> <p>10 A Yes.</p> <p>11 Q -- redistricting in which you were clearly in the</p> <p>12 leadership position in that one and when you were</p> <p>13 working with Panzer and Jensen, and -- and you</p> <p>14 don't recall whether you had people sign secrecy</p> <p>15 agreements then?</p> <p>16 A I don't recall that there were or were not</p> <p>17 confidentiality agreements. I just don't recall.</p> <p>18 But to be clear, don't misinterpret. The reason I</p> <p>19 said that is because I expected that</p> <p>20 confidentiality and -- in 2002. That's why I</p> <p>21 answered your question so quickly. It's the</p> <p>22 question of whether there's a signed agreement</p> <p>23 that I'm -- I'm trying to point out. I just don't</p> <p>24 know.</p> <p>25 Q When you found out about those secrecy agreements</p>	<p style="text-align: right;">Page 68</p> <p>1 BY MR. EARLE:</p> <p>2 Q Did any of your staff who worked on the</p> <p>3 redistricting process sign secrecy agreements?</p> <p>4 A No.</p> <p>5 MR. HODAN: You're referring to a</p> <p>6 confidentiality agreement?</p> <p>7 MR. EARLE: We've had this ongoing</p> <p>8 thing about secrecy and confidentiality.</p> <p>9 MR. HODAN: There is a distinction.</p> <p>10 So are you going to ask about a confidentiality</p> <p>11 agreement?</p> <p>12 MR. EARLE: I think it's a distinction</p> <p>13 along the lines of disenfranchisement versus</p> <p>14 underpopulation or delayed voting I think is</p> <p>15 what --</p> <p>16 MR. HODAN: Perhaps we'll show him a</p> <p>17 copy of the agreement.</p> <p>18 MR. DAUGHTERY: Here we go. You've</p> <p>19 got them right now, so we'll know what the actual</p> <p>20 title is.</p> <p>21 THE WITNESS: You're not going to use</p> <p>22 all those, are you? That's okay. It's your</p> <p>23 deposition. It's your deposition.</p> <p>24 MR. EARLE: Well, I just want to show</p> <p>25 them to you.</p>
<p style="text-align: right;">Page 67</p> <p>1 did you discuss them with Eric McLeod?</p> <p>2 A No. The confidentiality agreements I told you I</p> <p>3 read about in the newspaper this week. I haven't</p> <p>4 discussed it since then.</p> <p>5 Q Did you discuss it with anybody?</p> <p>6 A No. You.</p> <p>7 Q Me. Okay. So this is the first discussion that</p> <p>8 you've had with anybody since you read about the</p> <p>9 secrecy agreements.</p> <p>10 A The first discussions I've had with regard to the</p> <p>11 confidentiality agreements is with you today,</p> <p>12 that's correct.</p> <p>13 Q Did you sign a secrecy agreement?</p> <p>14 A I don't believe so, but as a lawyer I have certain</p> <p>15 obligations, so there would be no need for a</p> <p>16 confidentiality agreement.</p> <p>17 Q That's why we had to get a court order.</p> <p>18 A That's correct, to get me to talk.</p> <p>19 MR. DAUGHTERY: Pesky Supreme Court</p> <p>20 rules.</p> <p>21 MR. EARLE: And the record should show</p> <p>22 that everybody in the room is chuckling in good</p> <p>23 faith.</p> <p>24 MR. DAUGHTERY: Thank you.</p> <p>25</p>	<p style="text-align: right;">Page 69</p> <p>1 THE WITNESS: That's fine. That's</p> <p>2 what I said, Peter.</p> <p>3 BY MR. EARLE:</p> <p>4 Q And I'm showing you what's already been marked as</p> <p>5 Exhibit 123 as part of the record. Okay? And</p> <p>6 looking at the agreement, does it refresh your</p> <p>7 recollection as to whether you've seen these</p> <p>8 agreements before?</p> <p>9 A Let me read it. Give me a moment. Okay. Now I'm</p> <p>10 sorry. What was the question?</p> <p>11 Q I just wanted to make sure that having now looked</p> <p>12 at the exhibit whether that refreshes your</p> <p>13 recollection as to whether you've ever seen these</p> <p>14 agreements before.</p> <p>15 A I don't recall seeing them before.</p> <p>16 Q Showing you what's been marked as Exhibit 124.</p> <p>17 MR. HODAN: Are we going to read the</p> <p>18 title of the agreement?</p> <p>19 MR. EARLE: Do you want to read the</p> <p>20 title, Patrick?</p> <p>21 MR. DAUGHTERY: I'll read it. It is</p> <p>22 entitled confidentiality and nondisclosure related</p> <p>23 to reapportionment.</p> <p>24 MR. EARLE: And above that it says</p> <p>25 privileged attorney-client communication.</p>

<p style="text-align: right;">Page 70</p> <p>1 MR. DAUGHTERY: And it does not say</p> <p>2 secrecy agreement anywhere.</p> <p>3 MR. EARLE: You call a rose a red</p> <p>4 flower, it's still a rose.</p> <p>5 THE WITNESS: Are these identical?</p> <p>6 No, they're not quite.</p> <p>7 MR. EARLE: And just so the record's</p> <p>8 clear, I've shown you what's been marked as</p> <p>9 Exhibit 124 in this case. Let me switch with you.</p> <p>10 This is the stapled version. Which one have you</p> <p>11 got? 123? 124, you've got that?</p> <p>12 MR. DAUGHTERY: Thank you.</p> <p>13 BY MR. EARLE:</p> <p>14 Q Now, you're looking at 124; correct?</p> <p>15 A Yes.</p> <p>16 Q Okay. I will represent to you that the</p> <p>17 Exhibit 124 is in chronological order. The first</p> <p>18 one is signed by Andre Jacque on April 26th, 2011</p> <p>19 and the last one is signed is by someone whose</p> <p>20 signature I have no idea who it is.</p> <p>21 A Neither do I.</p> <p>22 Q May 12 of 2011.</p> <p>23 A They're not quite in chronological order but the</p> <p>24 second is one is the 12th, but they contain</p> <p>25 between those dates roughly.</p>	<p style="text-align: right;">Page 72</p> <p>1 decision?</p> <p>2 A I certainly don't recall any but I might have</p> <p>3 been.</p> <p>4 Q Did you correspond with anybody about whether or</p> <p>5 not to make the decision to hold the meetings in</p> <p>6 secrecy at the law firm of Michael Best &</p> <p>7 Friedrich?</p> <p>8 A Again, confidential meetings with legislators were</p> <p>9 the normal course. So in that sense yes, I was.</p> <p>10 I would have been involved and I wouldn't have</p> <p>11 been surprised at all.</p> <p>12 Q Did you have similar meetings, secret meetings</p> <p>13 with individual legislators at the law firm of</p> <p>14 Michael Best & Friedrich in 2001 and 2002?</p> <p>15 A I don't recall where the meetings took place, the</p> <p>16 confidential meetings in 2001, 2002. I suspect</p> <p>17 that they did occur primarily at the law offices</p> <p>18 in the same way as apparently they did in this</p> <p>19 last cycle.</p> <p>20 Q Did you discuss the issue of how to maintain --</p> <p>21 I'll use the word secret but you can use the word</p> <p>22 confidential. We're talking about the same thing.</p> <p>23 Did you discuss with Scott Fitzgerald and</p> <p>24 Jeff Fitzgerald the idea of conducting this</p> <p>25 process in secret?</p>
<p style="text-align: right;">Page 71</p> <p>1 Q Exactly. What was your role on the redistricting</p> <p>2 team between April 26 of 2011 and May 12th of</p> <p>3 2011?</p> <p>4 A Minimal. I was in the midst of the Prosser</p> <p>5 recount.</p> <p>6 MR. HODAN: Let the record reflect</p> <p>7 that Attorney Maria Lazar just joined us.</p> <p>8 MS. LAZAR: Good afternoon. Welcome</p> <p>9 from Madison.</p> <p>10 BY MR. EARLE:</p> <p>11 Q Were you involved in the decision to have the</p> <p>12 Foltz, Ottman and Handrick team meet with</p> <p>13 individual legislators?</p> <p>14 A I knew that they were doing it.</p> <p>15 Q How did you know that?</p> <p>16 A Because that would be the normal process by which</p> <p>17 this would go forward. They would consult with</p> <p>18 each member of the legislature to determine</p> <p>19 various things about what they expected and how to</p> <p>20 draw the map.</p> <p>21 Q Who made the decision that those meetings would</p> <p>22 happen at the Michael Best law firm as opposed to</p> <p>23 in the Capitol?</p> <p>24 A I don't know.</p> <p>25 Q Were you involved in any discussions to make that</p>	<p style="text-align: right;">Page 73</p> <p>1 MR. DAUGHTERY: Just to clarify, when</p> <p>2 you say this process --</p> <p>3 MR. EARLE: The redistricting process.</p> <p>4 MR. DAUGHTERY: Thank you.</p> <p>5 THE WITNESS: I don't recall any</p> <p>6 specific discussions regarding the confidential</p> <p>7 way in which it would have gone forward. I don't.</p> <p>8 I simply don't recall that.</p> <p>9 BY MR. EARLE:</p> <p>10 Q Did you discuss with anybody the question of how</p> <p>11 to set up the redistricting team?</p> <p>12 A You mean the members of the team?</p> <p>13 Q Yes.</p> <p>14 A Oh, oh, sure.</p> <p>15 Q How involved were you in that?</p> <p>16 A Well, I would have been very involved. I mean,</p> <p>17 that -- that process had occurred during -- as</p> <p>18 early as 2010 before the 2010 elections and, you</p> <p>19 know, I'm in and out of the Capitol on a regular</p> <p>20 basis. So there would have been discussions about</p> <p>21 who in the caucus, for example, would be a good</p> <p>22 person to work with members of the caucus for</p> <p>23 redistricting.</p> <p>24 And again, I would assume this is</p> <p>25 fairly common at the Capitol again on both sides</p>

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<p>1 of the aisle, certainly has been for the 30 years</p> <p>2 I've been involved, that this is a difficult</p> <p>3 process. This is extremely difficult, involves --</p> <p>4 as you've pointed out, it's not an easy thing.</p> <p>5 And so you need people who are going to work 24/7,</p> <p>6 who have an interest in it, who want to</p> <p>7 participate and are prepared to take the slings</p> <p>8 and arrows of trying to deal with redistricting.</p> <p>9 And so those discussions had been certainly been</p> <p>10 going on for a long time, and I'm sure I</p> <p>11 participated in some of them.</p> <p>12 Q The discussions before the election were the</p> <p>13 discussions of a minority caucus; correct?</p> <p>14 A No, they were never in the caucus as far as I</p> <p>15 recall. They were simply discussions that occur</p> <p>16 between people like me who would ultimately be</p> <p>17 involved in redistricting and leadership and</p> <p>18 members of the minority parties at the time.</p> <p>19 I mean, we certainly would have had those</p> <p>20 discussions.</p> <p>21 Q Now, I'm talking about the period of time after</p> <p>22 the Republicans became the majority --</p> <p>23 A Okay.</p> <p>24 Q -- and your contacts with the legislature were</p> <p>25 representational in nature as an attorney on</p>	<p>1 Professor Esenberg?</p> <p>2 A Long enough. A while. He's been around a while,</p> <p>3 probably ten years or so.</p> <p>4 Q Is that long enough?</p> <p>5 A Oh, yeah. I like Professor Esenberg. He's a good</p> <p>6 guy. Do you know Rick? He's a good guy.</p> <p>7 Q When you said long enough, I was wondering, long</p> <p>8 enough for what?</p> <p>9 A A fair comment. Long enough to know better than</p> <p>10 to try to speculate how long I've known him, I</p> <p>11 guess is what I'm trying to say.</p> <p>12 Q Did you seek to involve him in the redistricting</p> <p>13 process?</p> <p>14 A Yes, yes. In June of -- June or July of this last</p> <p>15 year.</p> <p>16 Q At the end of the process?</p> <p>17 A Near the end, yeah, very end. I had been --</p> <p>18 that's not correct. That's not correct. I had</p> <p>19 been asked to teach at Marquette Law School in his</p> <p>20 class. He teaches a class on election law and</p> <p>21 part of it is on redistricting, and so I had,</p> <p>22 in fact, taught his class at Marquette Law School</p> <p>23 on redistricting a year or two before. I don't</p> <p>24 remember when, but I'm sure in that context, I'm</p> <p>25 sure we talked about it as I talked about it with</p>
Page 75	Page 77
<p>1 behalf of the legislature by its leadership.</p> <p>2 A Yes.</p> <p>3 Q Okay. Who designed the legal team at that point</p> <p>4 in time?</p> <p>5 A You -- I don't think any one person designed the</p> <p>6 team.</p> <p>7 Q Who decided who was on the team?</p> <p>8 A The speaker and the majority leader.</p> <p>9 Q Would you identify the team at that point in time.</p> <p>10 A Which point in time?</p> <p>11 Q When you became -- when the Republicans became the</p> <p>12 majority.</p> <p>13 A Oh, I think it was pretty, pretty quickly,</p> <p>14 probably within days or weeks that Tad, Adam, Joe</p> <p>15 became identified as people that would be</p> <p>16 instrumental in the process and that people like</p> <p>17 me and Eric -- Ray had not decided yet to leave</p> <p>18 the attorney general's office, so I don't believe</p> <p>19 Ray would have been involved. So that would have</p> <p>20 been the way it transpired.</p> <p>21 Q Who was hired first, you or Eric McLeod?</p> <p>22 A I assume Eric but I don't know that. Because Eric</p> <p>23 hired me.</p> <p>24 Q I'm going to ask you some questions about</p> <p>25 Professor Esenberg. How long have you known</p>	<p>1 his class how redistricting would go forward and</p> <p>2 the process and the constitutional issues.</p> <p>3 Q You made the decision to have him come testify at</p> <p>4 the hearing on July 13, 2011; correct?</p> <p>5 A I made -- somebody made the decision for me to</p> <p>6 call him to ask if he would testify at the</p> <p>7 hearing. It might have been me. I don't know who</p> <p>8 made the decision, so to speak. My impression</p> <p>9 candidly was that it was Ray Taffora who suggested</p> <p>10 we call Professor Esenberg, but I had a long</p> <p>11 relationship with the professor, so I would be the</p> <p>12 one to call him.</p> <p>13 Q I'm going to show you an e-mail, which we're going</p> <p>14 to mark as Exhibit 221.</p> <p>15 A And what's the date on it? Let me just make sure</p> <p>16 we check. Is this one of the ones that --</p> <p>17 Q This one, I'm pretty sure it's not on the list but</p> <p>18 it may be so I'll give you the date. It's</p> <p>19 July 12, 2011 at 8:42 a.m. and it's an e-mail from</p> <p>20 Richard Esenberg, which I doubt it's on the list</p> <p>21 because it involves a third party.</p> <p>22 A I wouldn't have thought so. This is the first</p> <p>23 document that we've had here. I wasn't -- Brandon</p> <p>24 here is my associate and he's got this terrible</p> <p>25 responsibility of making sure he checks that,</p>

<p style="text-align: right;">Page 78</p> <p>1 so --</p> <p>2 Q Well, I'm sure -- and he looks very capable of --</p> <p>3 A He's very good at it.</p> <p>4 Q I have no doubt. So -- but this is an e-mail from</p> <p>5 Professor Esenberg to you with cc's to Tad Ottman,</p> <p>6 Adam Foltz, Eric McLeod, Ray Taffora and Sarah</p> <p>7 Troupis.</p> <p>8 MR. DAUGHTERY: Is there a JRT Bates</p> <p>9 number on that, please?</p> <p>10 MR. EARLE: No, there is not. There's</p> <p>11 a Foltz Bates number but -- which is Foltz 001028.</p> <p>12 But we'll mark it as Exhibit 221 and that's how it</p> <p>13 will be known in this case.</p> <p>14 MR. DAUGHTERY: Thank you.</p> <p>15 (Exhibit No. 221 was marked for</p> <p>16 identification.)</p> <p>17 BY MR. EARLE:</p> <p>18 Q Do you recall this e-mail?</p> <p>19 A Yes. This was part of a string of e-mails.</p> <p>20 Q And this e-mail is dated July 12, 2011 at</p> <p>21 8:42 a.m.; correct?</p> <p>22 A That's what it says.</p> <p>23 Q It was from Richard Esenberg to you about the</p> <p>24 hearing which was going to occur the next day on</p> <p>25 July 13, 2011; correct?</p>	<p style="text-align: right;">Page 80</p> <p>1 because I asked him or for some other reason,</p> <p>2 because you've been very careful about that, but</p> <p>3 the answer is I certainly had asked him and he</p> <p>4 had -- by this point I assumed he was going to</p> <p>5 testify.</p> <p>6 Q Right, okay. We'll put down the operative</p> <p>7 language here since we have an objection to the</p> <p>8 word "arranged." You procured his testimony in</p> <p>9 support of Act 43; isn't that correct?</p> <p>10 A Again, I invited him to testify and he was willing</p> <p>11 to testify.</p> <p>12 Q Okay. So you were successful in obtaining his</p> <p>13 testimony?</p> <p>14 MR. HODAN: Objection.</p> <p>15 THE WITNESS: Well, success, I mean,</p> <p>16 you know, he was going to testify.</p> <p>17 BY MR. EARLE:</p> <p>18 Q And would you read into the record what the e-mail</p> <p>19 says on July 12, 2011 at 8:42 a.m., the day before</p> <p>20 the hearing.</p> <p>21 A Has anything changed on this? Please let me know</p> <p>22 how long you want me to talk. I'm thinking 15</p> <p>23 minutes, if not shorter. Has there been any</p> <p>24 analysis of the ability to create more</p> <p>25 majority/minority districts.</p>
<p style="text-align: right;">Page 79</p> <p>1 A That's what it appears to be, yes.</p> <p>2 Q You had already arranged for Professor Esenberg's</p> <p>3 testimony at that point in time; correct?</p> <p>4 MR. HODAN: Objection. What do you</p> <p>5 mean by arranged?</p> <p>6 MR. EARLE: Arranged. I mean</p> <p>7 arranged.</p> <p>8 MR. HODAN: What do you mean by that?</p> <p>9 MR. EARLE: He had arranged it,</p> <p>10 I mean, that's a word in the English language.</p> <p>11 MR. HODAN: There's a difference</p> <p>12 between arranging for someone to come and</p> <p>13 arranging someone's testimony. I just wanted to</p> <p>14 make sure we're clear.</p> <p>15 MR. POLAND: I think the witness is</p> <p>16 the clear. I think the witness can answer the</p> <p>17 question.</p> <p>18 THE WITNESS: This is a part of a</p> <p>19 series of e-mails and by this time I believe that</p> <p>20 Professor Esenberg had agreed that he would</p> <p>21 testify.</p> <p>22 BY MR. EARLE:</p> <p>23 Q He had agreed because you had asked him to;</p> <p>24 correct?</p> <p>25 A Well, you would have to ask him if he agreed</p>	<p style="text-align: right;">Page 81</p> <p>1 Q Did you respond to this e-mail, do you recall?</p> <p>2 A I don't recall.</p> <p>3 Q I think you might have.</p> <p>4 A You know, this is the -- the secret, you know,</p> <p>5 item. So that's good. Go through them in proper</p> <p>6 order. I'm not trying to, Peter. You do what you</p> <p>7 got to do.</p> <p>8 MR. EARLE: I'm not trying to be</p> <p>9 secret, that's for sure.</p> <p>10 (Exhibit No. 222 was marked for</p> <p>11 identification.)</p> <p>12 BY MR. EARLE:</p> <p>13 Q Exhibit 222 this is an e-mail dated July 12, 2011,</p> <p>14 9:44 a.m. from you to Rick Esenberg; correct?</p> <p>15 A Yes, it is.</p> <p>16 Q Would you read into the record what you wrote to</p> <p>17 Rick, Professor Esenberg?</p> <p>18 A Rick, the schedule is for the hearing to start at</p> <p>19 10:00 and you will be the second witness between</p> <p>20 10:45 and 11:15. We would like you to address</p> <p>21 meeting the minority representation criteria. We</p> <p>22 match or better the last map drawn by the Court.</p> <p>23 Tad will give you a call to give you the numbers</p> <p>24 and process and whatever else you may need. Jim.</p> <p>25 Q He had already agreed to address the minority</p>

<p style="text-align: right;">Page 82</p> <p>1 representation criterion?</p> <p>2 A I don't know. I just don't know.</p> <p>3 Q But it's clear from this e-mail that he had not</p> <p>4 yet received the numbers and process and what he</p> <p>5 would need; correct?</p> <p>6 A The reason I said I don't know is because</p> <p>7 Professor Esenberg is extremely meticulous.</p> <p>8 I co-counsel on any number of free speech cases</p> <p>9 and other matters with him, and -- and he -- he</p> <p>10 would never have agreed to something in advance of</p> <p>11 knowing enough information to make that decision.</p> <p>12 So if -- if an e-mail from me to Professor</p> <p>13 Esenberg for Rick is familiar, that is, less</p> <p>14 formal than otherwise, that wouldn't surprise me,</p> <p>15 but I would absolutely not be able to read this</p> <p>16 and know if he had made a decision because there</p> <p>17 was other e-mails going back and forth and</p> <p>18 Professor Esenberg is a very careful man.</p> <p>19 Q But we do know from this objectively that as of</p> <p>20 9:44 a.m. on July 12, 2011, the day before the</p> <p>21 hearing, Professor Esenberg had still not gotten</p> <p>22 the numbers and process and whatever else he</p> <p>23 needed; correct?</p> <p>24 A No, we do not know that.</p> <p>25 Q Is there anything on here that would indicate that</p>	<p style="text-align: right;">Page 84</p> <p>1 e-mail.</p> <p>2 Q Okay. And in this e-mail, Professor Esenberg</p> <p>3 tells you to have him call his mobile number</p> <p>4 because he was at WILL. What is that?</p> <p>5 A That's the -- is it Wisconsin Institute for Law</p> <p>6 and Liberty. The first name is Wisconsin, I</p> <p>7 believe so. It's the Institute for Law and</p> <p>8 Liberty. I believe it's Wisconsin is what its</p> <p>9 first and it is an organization that Professor</p> <p>10 Esenberg now heads here in Milwaukee.</p> <p>11 Q What is the nature of that organization?</p> <p>12 A He would be able to tell you better than me, but</p> <p>13 it is an organization dedicated to bringing</p> <p>14 matters of constitutional import that relate to</p> <p>15 liberty primarily. He and I have, as I told you</p> <p>16 before, been very interested in constitutional</p> <p>17 matters, particularly surrounding free speech,</p> <p>18 open records, things of that type, and -- and this</p> <p>19 was -- this was really a special organization that</p> <p>20 he'd been trying to get together and put together</p> <p>21 over the years and he was able to accomplish that</p> <p>22 this last year.</p> <p>23 Q And this activity that you describe in the context</p> <p>24 of this organization is that you and he share an</p> <p>25 interest in open government?</p>
<p style="text-align: right;">Page 83</p> <p>1 he had received the numbers, the process or</p> <p>2 anything else he needed?</p> <p>3 A Not on this e-mail, no.</p> <p>4 Q And the inference of this e-mail is that he had</p> <p>5 not at that point in time received it because</p> <p>6 you're still making the arrangements for him to</p> <p>7 get it; correct?</p> <p>8 A No, that's not the inference I would draw from</p> <p>9 this. And I explained earlier why I would not</p> <p>10 draw such inferences from the e-mail standing</p> <p>11 alone.</p> <p>12 (Exhibit No. 223 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. EARLE:</p> <p>15 Q Showing you the next e-mail in the chain, which is</p> <p>16 Tuesday, July 12, 2011, at 9:58 a.m. This is an</p> <p>17 e-mail from Professor Esenberg to you responding</p> <p>18 to the prior e-mail; correct?</p> <p>19 A There's two pages to this. Did you mean -- these</p> <p>20 appear to be unrelated.</p> <p>21 Q Yes, you're right, and --</p> <p>22 A You want me to just give the second page back to</p> <p>23 you?</p> <p>24 Q Yes.</p> <p>25 A Yeah, this appears to be a response to the earlier</p>	<p style="text-align: right;">Page 85</p> <p>1 A Yes.</p> <p>2 (Exhibit No. 224 was marked for</p> <p>3 identification.)</p> <p>4 BY MR. EARLE:</p> <p>5 Q Mr. Troupis, this is an e-mail dated July 13,</p> <p>6 2011?</p> <p>7 A I chuckle. I remember this one.</p> <p>8 Q So this is July 13, 2011 at 10:53 a.m.; correct?</p> <p>9 A That's what it appears to be, yes.</p> <p>10 Q This is the day of the hearing; right?</p> <p>11 A Yes.</p> <p>12 Q And it's from you to Professor Esenberg. It's</p> <p>13 from you to -- who is this from?</p> <p>14 A I can tell you why it appears to be. It's from</p> <p>15 me. It's from me.</p> <p>16 Q It's from you to yourself?</p> <p>17 A Well, it was -- it was a -- you know when you have</p> <p>18 that function on your phone, because I didn't have</p> <p>19 Rick's e-mail in my phone but I had a prior e-mail</p> <p>20 that had all the addresses in it. So I used a</p> <p>21 reply to all function. That's what I did here,</p> <p>22 something like that.</p> <p>23 Q Got it. Okay. So this actually -- so you went</p> <p>24 back to an older e-mail that contained a reference</p> <p>25 to WisPolitics report back on July 8?</p>

<p style="text-align: right;">Page 86</p> <p>1 A It must have been, yeah. It must have been this 2 one that you showed me a minute ago. It looks 3 like it's all the same people. 4 Q You and Professor Esenberg had shared an e-mail 5 about a WisPolitics report dated July 8, 2010? 6 A You shared it with me a minute ago, 223, 222. 7 That's the e-mail. 8 Q No, I'm talking about the caption. 9 A No, that's the caption on the last four e-mails 10 you've shown me. 11 Q All right. So this is a -- this is an e-mail 12 where you're asking him -- you're informing him 13 that the meeting is now underway and you're 14 inquiring as to where he is. 15 A Exactly. 16 Q That's because he's running late? 17 A Well, I didn't know at the time. You know, 18 because I had said the day before that be there 19 between 10:45 and 11:15 and there was no Professor 20 Esenberg in the room. Actually it turned out he 21 had come in and I think I hadn't seen him. He was 22 on the other side. 23 Q So then you walked over and talked to him? 24 A Yeah, exactly. 25 Q Did you notice who was sitting around that</p>	<p style="text-align: right;">Page 88</p> <p>1 but it was a lot of both but it wasn't -- it 2 wasn't as much as I said earlier as you might have 3 thought, because of my other schedule issues. 4 Q And I'm trying to get a sense for that. 5 A That's what I was trying to give. 6 Q So here we have basically two senior lawyers 7 involved; right? You and Eric McLeod? 8 A Eric's a pretty young guy. 9 Q But senior in terms of -- 10 A Experienced. 11 Q Experienced; right? 12 A Yes. 13 Q And the Michael Best lawyers who were in this -- 14 in this redistricting process were subordinate to 15 Eric McLeod; correct? 16 A I assume so. 17 Q So he was the -- 18 A Well, Ray Taffora wouldn't be subsumed is to 19 anybody, if you know Raymond. 20 Q Well, I don't. 21 A Ray was the former deputy assistant attorney 22 general under Van Hollen, so he was the number two 23 lawyer in the state. So he would -- he would be 24 considered considerably senior to Eric within 25 Michael Best & Friedrich.</p>
<p style="text-align: right;">Page 87</p> <p>1 vicinity at the time? 2 A No. You probably, Peter. Well, were you? Did 3 you see me? That's what I figured. 4 Q I was sitting right behind him. 5 A Well, that's right, see? I lost track of him. 6 MR. EARLE: Can we go off the record? 7 THE VIDEOGRAPHER: We are going off 8 the record at 5:27 p.m. 9 (A recess was taken.) 10 THE VIDEOGRAPHER: Videographer this 11 is the beginning of disk two of the video 12 deposition of James R. Troupis on February 22, 13 2012. The time, 5:48 p.m. 14 BY MR. EARLE: 15 Q Mr. Troupis, just to tie a few loose ends. You 16 work closely with Joe Handrick? 17 A Yes. 18 Q And you and him dialogue frequently during the 19 course of the redistricting process? 20 A No. 21 Q Not frequently? 22 A No. 23 Q Okay. Was most of your communication with the 24 legal team by e-mail as opposed to verbal? 25 A I don't know if I'd rate them one way or the other</p>	<p style="text-align: right;">Page 89</p> <p>1 Q But from the Michael Best & Friedrich framework, 2 the lead lawyer on the redistricting case -- 3 A I think Eric, that's a fair statement, would be 4 Eric. 5 Q Right, okay. So basically -- so the -- I'm trying 6 to get a sense is it accurate to say -- it's 7 accurate to say that the legal team for the 8 redistricting effort this time around had you as a 9 senior legal team member and Eric McLeod as a 10 senior legal team member. 11 A I think that's fair. 12 Q Okay. And the rest of the team kind of looked to 13 the both of you as the senior -- the senior 14 leaders; right? 15 A I won't speculate on their level of respect for 16 those of us who have lost hair and turned gray 17 over the years, but hope they thought that. 18 Q But I'm sure you maintain that; right? 19 A I would think that they would defer to Eric and I, 20 yes. 21 Q Okay. And so on complicated, important issues 22 related to the redistricting process, they would 23 seek -- they would seek guidance from you; 24 correct? 25 A I would assume if they didn't know the answer,</p>

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<p>1 that they would have come to one of us, or</p> <p>2 Ray Taffora.</p> <p>3 Q So during his deposition, Joseph Handrick, at</p> <p>4 page 386, line 16 through line 19, asked you the</p> <p>5 following question. So I asked him --</p> <p>6 A You asked him the question. I got that. I was</p> <p>7 okay on that one, Peter. I got that.</p> <p>8 Q Let me start over again. On February 1, 2012, the</p> <p>9 deposition of Joseph Handrick at page 386, line 16</p> <p>10 through line 19, I asked Mr. Handrick the</p> <p>11 following question.</p> <p>12 So you've never discussed with Eric</p> <p>13 McLeod the importance of making sure that there</p> <p>14 was a majority of eligible Latino voters in the</p> <p>15 district. And his answer was that's correct, and</p> <p>16 that's after an objection to form by Mr. Dan</p> <p>17 Kelly.</p> <p>18 A Okay.</p> <p>19 Q Okay? And then the second question I asked after</p> <p>20 that was: And you never spoke with Jim Troupis</p> <p>21 about the importance of determining whether or not</p> <p>22 it was possible to draw a district that had a</p> <p>23 majority of eligible Latino voters in it, and</p> <p>24 again Mr. Kelly objected to form and again</p> <p>25 Mr. Handrick answered that's right, that's</p>	<p>1 without regard to the citizenship of the Latinos?</p> <p>2 MR. HODAN: Objection. Calls for a</p> <p>3 legal conclusion.</p> <p>4 THE WITNESS: I don't believe I said</p> <p>5 that.</p> <p>6 BY MR. EARLE:</p> <p>7 Q Okay. So in other words, it is important in the</p> <p>8 redistricting process to consider the eligibility</p> <p>9 of the Latinos who are part of a population within</p> <p>10 an area that's being redistricted, correct?</p> <p>11 MR. HODAN: Objection. Calls for an</p> <p>12 expert legal opinion or expert opinion.</p> <p>13 THE WITNESS: Everything is not so</p> <p>14 black and white is as you're trying to make it</p> <p>15 with your question.</p> <p>16 BY MR. EARLE:</p> <p>17 Q What does that mean?</p> <p>18 A It means that there are a whole body of -- in the</p> <p>19 social science literature, political science</p> <p>20 literature and in law that's developed around what</p> <p>21 are the appropriate criteria to determine, you</p> <p>22 know, whether a specific district can elect a</p> <p>23 representative of choice for that minority group.</p> <p>24 You've chosen to isolate citizenship as one of</p> <p>25 those and you're entitled to do that, but it's</p>
Page 91	Page 93
<p>1 correct.</p> <p>2 A Okay.</p> <p>3 Q Okay? Do you dispute that statement?</p> <p>4 A I think I answered earlier that I didn't recall</p> <p>5 having those kinds of conversations if eligible in</p> <p>6 this case is citizenship. I don't think that --</p> <p>7 my assumption is here when you're using the term</p> <p>8 "eligible" there you're talking about whether or</p> <p>9 not they were citizens or the like and there was</p> <p>10 a -- I think I acknowledged earlier that we didn't</p> <p>11 have any substantial discussions about that.</p> <p>12 Q Okay. So an eligible, meaning an eligible voter,</p> <p>13 that means the voter has to qualify; correct?</p> <p>14 A Well, that's what I interpreted it as.</p> <p>15 Q Citizenship and voting age are the two salient</p> <p>16 criteria; correct?</p> <p>17 A There are other criteria such as residency or not</p> <p>18 being a felon or whatever, but yeah, those are the</p> <p>19 two primary ones.</p> <p>20 Q And the two primary ones that are customarily of</p> <p>21 relevance to redistricting efforts are citizenship</p> <p>22 and voting age; correct?</p> <p>23 A I don't believe citizenship is.</p> <p>24 Q So you think it's appropriate to redistrict</p> <p>25 populations that include large numbers of Latinos</p>	<p>1 not, I don't think, generally accepted, at least</p> <p>2 I don't believe it is, that that would be somehow</p> <p>3 a trumping criteria, particularly in Milwaukee,</p> <p>4 particularly in the districts you're involved with</p> <p>5 here where they have consistently elected a</p> <p>6 Latino. So it wouldn't be something that would</p> <p>7 have come to mind as a serious question in that</p> <p>8 district or those districts.</p> <p>9 Q Before you came here today, did you speak with any</p> <p>10 lawyer from the Reinhart law firm about having to</p> <p>11 be deposed?</p> <p>12 A I called Patrick Hodan on Friday night after I'd</p> <p>13 been served. I think it was Friday night.</p> <p>14 Patrick probably knows better. Friday night or</p> <p>15 Saturday morning to say I just got a subpoena to</p> <p>16 appear at trial. What's this about.</p> <p>17 Q And what did Mr. Hodan say to you?</p> <p>18 A I think he explained that he didn't know what it</p> <p>19 was about. He assumed it was about my contacts</p> <p>20 with MALDEF and was a consequence of the decision</p> <p>21 the day before on the attorney privilege issues,</p> <p>22 which had come out apparently on Thursday night.</p> <p>23 And I think I then talked to him again on Saturday</p> <p>24 morning and I asked him to call you, I believe, to</p> <p>25 explain that I had just come off an incredibly</p>

<p style="text-align: right;">Page 94</p> <p>1 long and difficult trial and I was supposed to be 2 on vacation. So that's -- that's what we 3 discussed. 4 Q Which is why you're enjoying this evening so much. 5 A Yes. I hope that tomorrow night I'm at Sandals or 6 somewhere else, but, you know, I think my marriage 7 is going to need that at this point. So those are 8 the conversations I had with him. 9 Q And the record should reflect that there is a 10 joking nature, joking about it. 11 A We're not trying to -- I appreciate that. 12 Q Nobody's being mean. 13 A I appreciate that. 14 Q All right. So did you have any substantive 15 discussions with Mr. Hodan or anybody else from 16 the Reinhart law firm about the legal issues in 17 this case? 18 A No. 19 Q Did you have any substantive conversations with 20 anybody at the attorney general's office about the 21 legal issues in this case? 22 A No. 23 Q Did you have any substantive discussions about the 24 legal issues in this case with anybody other than 25 the lawyers at Whyte Hirschboeck?</p>	<p style="text-align: right;">Page 96</p> <p>1 whether the configuration of the 8th and 9th 2 relative to each other was constrained to the -- 3 the third senate district as it had been drawn. 4 So that in other words, that the team felt that it 5 was amenable to accommodating concerns or 6 interests of the Latino community as long as those 7 could be constrained within the third senate 8 district so as not to affect the boundaries of the 9 third senate district. Is that an accurate 10 statement? 11 A No. As I told you before, it's time sensitive. 12 Q You wrote some e-mails about it. 13 A Right, and exactly what I said, it's time 14 sensitive. The -- the time, it depends upon the 15 time period you're talking about. Containing -- 16 as legislation moves forward and gets closer and 17 closer in time, and because of the ripple effect 18 of any redistricting move, any change in a 19 particular district, some things become locked in 20 as a practical matter because the ripple effect 21 becomes so dramatic, especially when you're on a 22 time sensitive process, which at some point this 23 process became, you want to be careful to contain 24 the changes within particular areas. So that's 25 why I answered the first question it was time</p>
<p style="text-align: right;">Page 95</p> <p>1 A No. 2 Q What is your understanding of the legal issues 3 that pertain to your -- that your testimony 4 pertains to? 5 A I told you that all I could figure out was is that 6 because of my third party contacts with MALDEF, 7 that that was a reasonable area of inquiry and 8 that's what I told Patrick. 9 Q Okay. I'm going to -- going back to the Joseph 10 Handrick deposition of February 1, 2012 at 11 page 384, line 15 through line 19, I asked the 12 following question: And is -- and it's accurate 13 to say that the team's strategic position was that 14 there was flexibility as far as drawing the 8th 15 and 9th relative to each other as long as it did 16 not cause a ripple effect outside the third senate 17 district; is that correct? Answer: Yes. 18 A That's the question to Joe from you? 19 Q Yes. 20 A Okay. 21 Q You follow it? 22 A Yes. 23 Q Do you disagree with that? 24 A It's time sensitive. The -- so I don't know. 25 Q Well, I guess one of the questions in this case is</p>	<p style="text-align: right;">Page 97</p> <p>1 sensitive. I haven't heard that question and 2 answer before but that was my reason. 3 Q You don't disagree with the proposition that the 4 redistricting team started with Milwaukee; 5 correct? 6 A Oh, no, that's correct. We started in -- we 7 started in 2000 as well. So did the Court. 8 That's where you need to start. 9 Q And so just so I'm clear, putting aside your 10 explanation -- 11 A Okay. I'm sorry if I -- added more than you 12 wanted. 13 Q That's -- we're getting to the truth here. That's 14 what this is about, and -- 15 A I appreciate that. 16 Q And the truth is what the truth is. So just so 17 that anybody reading this transcript, the finders 18 of fact in this case will understand clearly that 19 as far -- as long as the configuration of the 20 Latino community in effect was those elements of 21 the Latino community with whom you and other 22 members of the team had contact with, those 23 elements of the community, those Latinos were 24 invited to consider configurations as long as the 25 configurations did not alter or cause a ripple</p>

<p style="text-align: right;">Page 98</p> <p>1 effect; correct?</p> <p>2 A As I said, that's extraordinarily time sensitive.</p> <p>3 That would not have been a restriction early in</p> <p>4 the process, nor was it necessarily a restriction</p> <p>5 later even at the end if something might have been</p> <p>6 achieved that would make it better.</p> <p>7 Q Okay.</p> <p>8 A In our view. So it -- I understand why you're</p> <p>9 saying that because -- because the -- as you</p> <p>10 approach the final process -- product, you --</p> <p>11 everyone is concerned that you not make changes</p> <p>12 that are unnecessary in the effect they will have</p> <p>13 elsewhere. So it was -- but had a good argument</p> <p>14 been made to get beyond those districts, then it</p> <p>15 would have been made.</p> <p>16 Q Okay. But just so we're precise about this,</p> <p>17 during the time that the Latino community was</p> <p>18 consulted -- strike that. Let me rephrase the</p> <p>19 question. At those points in time where Latinos</p> <p>20 were consulted about the redistricting process,</p> <p>21 your time sensitive concern had already</p> <p>22 constrained the configuration of the third senate</p> <p>23 district such that you would accept alterations of</p> <p>24 the map as it pertained to the 8th and 9th as long</p> <p>25 as it did not cause a ripple effect that went</p>	<p style="text-align: right;">Page 100</p> <p>1 capacities. And so I want to be extremely careful</p> <p>2 that I not misspeak. I -- I had certain contacts</p> <p>3 and I can talk about those contacts. So that's</p> <p>4 why I was being so hesitant here because I don't</p> <p>5 want this record to misread that somehow I was the</p> <p>6 only source of this.</p> <p>7 Q Okay. So as the co-leader of this team, you did</p> <p>8 not know what contacts other members of the team</p> <p>9 were having with the Latino community; correct?</p> <p>10 A That's correct. I would not have known all of the</p> <p>11 contacts.</p> <p>12 Q But you do know the Latino community in Milwaukee;</p> <p>13 correct?</p> <p>14 A I know members of the Latino community.</p> <p>15 Q You know Pedro Colon; right?</p> <p>16 A Right, yes.</p> <p>17 Q And did you call Pedro Colon?</p> <p>18 A No, I did not.</p> <p>19 Q And who else do you know in Milwaukee from the</p> <p>20 Latino community in Milwaukee?</p> <p>21 MR. DAUGHTERY: Just to clarify,</p> <p>22 anybody who's Latino descent who lives in</p> <p>23 Milwaukee that Jim knows you want him to identify?</p> <p>24 Anybody?</p> <p>25</p>
<p style="text-align: right;">Page 99</p> <p>1 beyond the third senate district; correct?</p> <p>2 A I don't mean to wrestle with the way -- there's a</p> <p>3 lot of pieces to your question.</p> <p>4 MR. DAUGHTERY: Object. I think it is</p> <p>5 compound and.</p> <p>6 MR. EARLE: We're trying to devise</p> <p>7 trial testimony.</p> <p>8 THE WITNESS: Anything you can do to</p> <p>9 keep me from having to be here tomorrow, I'll</p> <p>10 appreciate it.</p> <p>11 BY MR. EARLE:</p> <p>12 Q So you're going to work with me on this. Good.</p> <p>13 So let's give it to you in pieces then. I want</p> <p>14 you to consider the time frame when you first had</p> <p>15 contact with a Latino person about --</p> <p>16 A I, me.</p> <p>17 Q Or any other member of the team.</p> <p>18 A I can't speak for members of the team. That was</p> <p>19 why I was hesitant a minute ago is that the</p> <p>20 moment, I mean, you know, I have no -- I've known</p> <p>21 Pedro Colon for a long time and I've known a lot</p> <p>22 of the Latinos in Milwaukee for a long time, not</p> <p>23 closely because I'm not from here, and I assume</p> <p>24 that other members of the team would also know</p> <p>25 members of the Latino community in various</p>	<p style="text-align: right;">Page 101</p> <p>1 MR. EARLE: At this point anybody,</p> <p>2 yes. Let's start with the wide funnel here.</p> <p>3 THE WITNESS: Manuel, Manny.</p> <p>4 BY MR. EARLE:</p> <p>5 Q Are you saying Manny, you mean Manny Perez?</p> <p>6 A Yes, I've known him over the years. I've known</p> <p>7 Zeus Rodriguez.</p> <p>8 Q Zeus Rodriguez.</p> <p>9 A And Pedro.</p> <p>10 Q Pedro?</p> <p>11 A And Jose Oliveri.</p> <p>12 Q Jose. He's a shared friend.</p> <p>13 A Jerry Gonzalez.</p> <p>14 Q Jerry Gonzalez.</p> <p>15 A I'm sure there's others but those are the ones</p> <p>16 that I've had contact with.</p> <p>17 Q So beyond Zeus, Manny -- Zeus and Manny, did you</p> <p>18 contact any of those people about the remap in</p> <p>19 Milwaukee?</p> <p>20 A No.</p> <p>21 Q Did you think it was important that there be</p> <p>22 contact with the Latino community in the</p> <p>23 redistricting process?</p> <p>24 A I -- I obviously did think that it was important</p> <p>25 to contact certain people that I thought would</p>

<p style="text-align: right;">Page 102</p> <p>1 address the question of redistricting in the 2 Latino community and that's the reason I contacted 3 MALDEF. 4 Q We'll get to MALDEF in a bit. That's going to 5 be -- 6 A But beyond that, I had no particular opinion. It 7 was not my role in this process, so -- 8 Q All right. So -- but this is the -- this is the 9 question given that you've framed this such that 10 time sensitivity is critical. So the question 11 that was compound that was objected to before. 12 What I want to get to is an understanding of when 13 relatively to the redistricting process progress 14 you made the first contact with the Latinos to get 15 input about the relative configuration of the 8th 16 and 9th assembly districts relative to each other. 17 A I don't know. I just don't know. 18 Q Is it's fair to say -- well, strike that. It 19 would be accurate to say that the truth is that by 20 the time the first contact was made by any member 21 of the team, your time-sensitive consideration had 22 come and gone and there was no flexibility in your 23 view relative to a ripple effect; is that true? 24 MR. HODAN: Objection, lack of 25 foundation.</p>	<p style="text-align: right;">Page 104</p> <p>1 BY MR. EARLE: 2 Q You want to state it affirmatively for me? 3 MR. DAUGHTERY: In your own words? 4 THE WITNESS: Sure, yes. At the time 5 I first contacted a Latino group about the -- 6 about the Milwaukee configuration for 8 and 9 and 7 you said senate District 3 -- I didn't remember 8 the senate number -- I was unconcerned about 9 potential ripple effects. 10 BY MR. EARLE: 11 Q Okay. So it's -- now, you don't dispute that 12 other members of the redistricting team understood 13 that Latino concerns about the 8th and 9th 14 relative to each other, the configuration of those 15 two districts could be considered as long as there 16 was no ripple effect? 17 A I'm sorry, I don't understand that question. I 18 tried to follow the question. 19 Q And it's probably my fault but let's see if we can 20 read it back. 21 (The record was read as follows: 22 "So it's -- now, you don't dispute 23 that other members of the redistricting team 24 understood that Latino concerns about the 8th and 25 9th relative to each other, the configuration of</p>
<p style="text-align: right;">Page 103</p> <p>1 THE WITNESS: That would be completely 2 inaccurate. 3 BY MR. EARLE: 4 Q Okay. So your testimony is that at some point 5 during the time that you contacted a Latino person 6 about the redistricting, you were not concerned 7 about whether or not a ripple effect would occur? 8 A That would be correct, I think, if I understood 9 the question. 10 Q Okay. Okay. Let me make sure that I understood 11 the question. 12 A Because I think you asked it correctly. 13 Q Because you're agreeing with me, so I want it read 14 back to I make sure I understood it. 15 A Oh, my goodness, he's finally agreed. 16 MR. DAUGHTERY: Can you read it back, 17 ma'am? 18 (The record was read as follows: 19 "So your testimony is that at some 20 point during the time that you contacted a Latino 21 person about the redistricting, you were not 22 concerned about whether or not a ripple effect 23 would occur?") 24 THE WITNESS: There's a couple of notes 25 in there.</p>	<p style="text-align: right;">Page 105</p> <p>1 those two districts could be considered as long as 2 there was no ripple effect?") 3 MR. HODAN: I'm not sure I understand 4 it. 5 MR. EARLE: That's fair and I'll try 6 and redo it. 7 BY MR. EARLE: 8 Q You don't dispute the testimony of some members of 9 the team that they understood that Latino concerns 10 about the configuration of the 8th and 9th were -- 11 could be considered as long as there was no ripple 12 effect? 13 A I don't know what their testimony was. 14 Q Well, I read you Joe Handrick's -- 15 A And I said that at some point I wish -- I wish 16 there was a black-and-white date on which that 17 would have been the case. I don't know that there 18 is, you know, this date, this hour, and I 19 specifically said, if I recall my own testimony, 20 is that we were -- we would always have been 21 amenable even with ripple effects if we believed 22 that it was important as a legal proposition to 23 make the change that might have been there, but 24 that as a practical matter in a legislative 25 process, particularly in redistricting, there</p>

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<p>1 comes a point where you simply have to make the</p> <p>2 call, and it does not surprise me at all that</p> <p>3 Joe Handrick or others would have said and would</p> <p>4 have believed that it needed to be contained --</p> <p>5 that the change as we approached committee</p> <p>6 hearings and the like, the change would need not</p> <p>7 to have ripple effects. That does not surprise me</p> <p>8 at all.</p> <p>9 Q Do you know when the first time that</p> <p>10 Zeus Rodriguez was contacted by a member of the</p> <p>11 legal team?</p> <p>12 A No, I don't.</p> <p>13 Q Do you understand -- do you have an understanding</p> <p>14 generally when the first time he was contacted?</p> <p>15 A Sometime in June or July of that year.</p> <p>16 Q Were you involved in contacting him?</p> <p>17 A You know, I don't remember. I might have been.</p> <p>18 Q Did you talk to Scott Jensen about Zeus Rodriguez?</p> <p>19 A No.</p> <p>20 Q Do you know Zeus Rodriguez through Scott Jensen?</p> <p>21 A I don't know how I know him. He's a well-known</p> <p>22 person.</p> <p>23 Q Who is?</p> <p>24 A Zeus.</p> <p>25 Q Do you know at what point in time Manny Perez was</p>	<p>1 Q You mean early June of 2011. You said 2010.</p> <p>2 A Did I miss the year? 2011. I -- it's getting</p> <p>3 late, Peter. So thank you for correcting me.</p> <p>4 Q And you were involved with the decision to hire</p> <p>5 Professor Gaddie in particular to assist you in</p> <p>6 putting together the map; right?</p> <p>7 A Yes.</p> <p>8 Q And were you involved -- and you were involved in</p> <p>9 the decision to hire him to defend that map;</p> <p>10 correct?</p> <p>11 MR. HODAN: Objection to the</p> <p>12 characterization.</p> <p>13 MR. EARLE: What characterization are</p> <p>14 you --</p> <p>15 MR. HODAN: You're suggesting to</p> <p>16 defend, which suggests that he was given an</p> <p>17 assignment to defend rather than asked for his</p> <p>18 opinion regarding the matter.</p> <p>19 MR. EARLE: Wait. Did you -- I want</p> <p>20 to understand, Mr. Hodan, you're saying that</p> <p>21 it's -- that using the word "defend" the map is</p> <p>22 improper when -- with reference to Professor</p> <p>23 Gaddie?</p> <p>24 MR. HODAN: You're suggesting,</p> <p>25 counsel, that he was told what position to take,</p>
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<p>1 contacted by any member of the redistricting team?</p> <p>2 A Again, it was during that time period and I don't</p> <p>3 know whether it was me or whether it was somebody</p> <p>4 else offhand.</p> <p>5 MR. EARLE: Okay. Can we take a brief</p> <p>6 break?</p> <p>7 THE WITNESS: Certainly.</p> <p>8 THE VIDEOGRAPHER: We are going off</p> <p>9 record at 6:13 p.m.</p> <p>10 (A recess was taken.)</p> <p>11 THE VIDEOGRAPHER: We are back on the</p> <p>12 record at 6:29 p.m.</p> <p>13 BY MR. EARLE:</p> <p>14 Q Mr. Troupis, did you speak with Professor Gaddie</p> <p>15 at any point during the redistricting process?</p> <p>16 A Oh, sure.</p> <p>17 Q How often did you speak with Professor Gaddie?</p> <p>18 A Not very often. He had -- my recollection is, the</p> <p>19 only significant conversations we had would have</p> <p>20 been in early June of 2010 when he was here at the</p> <p>21 meetings. He came to -- one other occasion he had</p> <p>22 come to town but it was during the middle of the</p> <p>23 Prosser recount, and aside from having drinks with</p> <p>24 him one night, I don't think I made it -- I might</p> <p>25 have made it to the meetings but I don't recall.</p>	<p>1 and so why don't you ask him a question.</p> <p>2 MR. EARLE: Were you present at the</p> <p>3 deposition of Professor Gaddie where he</p> <p>4 characterizes himself?</p> <p>5 MR. HODAN: Why don't you ask the</p> <p>6 witness the question?</p> <p>7 MR. EARLE: I will but you --</p> <p>8 MR. DAUGHTERY: Objection is noted.</p> <p>9 MR. EARLE: Yes, objection is noted</p> <p>10 and I'll note for the record and I'll represent to</p> <p>11 you that Professor Gaddie indicated in his own</p> <p>12 words that he was retained to defend the matter.</p> <p>13 THE WITNESS: Interesting choice of</p> <p>14 words, but if that's what he said, that would be</p> <p>15 fine. I was -- I was actually thinking about a</p> <p>16 different way is that because my representation</p> <p>17 ended effectively at the end of the legislative</p> <p>18 process, I don't know his role. I have since</p> <p>19 learned that his role, that he was retained for</p> <p>20 purposes of the litigation. So that's -- I would</p> <p>21 just separate those.</p> <p>22 BY MR. EARLE:</p> <p>23 Q And you had no -- no discussions with anybody on</p> <p>24 the redistricting team about who would be hired</p> <p>25 after the maps were adopted.</p>

<p style="text-align: right;">Page 110</p> <p>1 A That is -- that is correct except for Professor 2 Grofman. 3 Q Okay. All right. So, well, let's constrain then 4 the inquiry to the period before the adoption of 5 the maps. 6 A Yeah. 7 Q Okay? 8 A Sure. 9 Q Professor Gaddie testified repeatedly that he 10 had -- he advised the members of the redistricting 11 team to consult with the Latino community. Do you 12 dispute that assertion? 13 A No. 14 Q Do you recall being advised of the importance to 15 consult with the Latino community? 16 A I'm not sure of the characterization because he -- 17 he's the one who sent me to the MALDEF. He and I 18 had discussions early on about the potential to 19 address the redistricting in the Latino community 20 and he gave me Nina, is it Nina Perales, I think 21 because he was working in the Illinois 22 redistricting. So that was the context in which 23 he discussed with me the importance of the -- 24 getting community involvement from the Latino 25 community.</p>	<p style="text-align: right;">Page 112</p> <p>1 BY MR. EARLE: 2 Q And they have a different football team than we 3 do. So the Latino community that I'm concerned 4 about, they're all Packers fans. 5 A Are you sure of that? 6 Q I'm pretty sure. So -- so you don't dispute that 7 Professor Gaddie advised the redistricting team of 8 the importance of consulting with Milwaukee's 9 Latino community about redistricting; isn't that 10 correct? You don't dispute that. 11 A I don't know that. I think I've just testified to 12 what I know. My role is the legal side of things. 13 I have no reason to dispute that he would have 14 talked to other people on the team about the 15 importance of contacting the Latino community 16 because of course this is both a legal and a 17 nonlegal legislative process. So it certainly 18 wouldn't surprise me that he said something to get 19 the community, get the community input from 20 Milwaukee, which that doesn't surprise me. 21 Q And you don't remember any conversations of the 22 team in which this advice from Professor Gaddie 23 was discussed. 24 A No, I don't. I mean, he talked -- I already told 25 you what he told us. I mean, in my conversations</p>
<p style="text-align: right;">Page 111</p> <p>1 Q But the Latino community in Milwaukee, he advised 2 the redistricting team to get -- to consult with 3 the Latino community in Milwaukee that was being 4 redistricted. That was the essence of his 5 testimony. 6 A If you characterize it that way, that's fine. 7 Q Do you disagree with that testimony? 8 MR. HODAN: Objection. Lack of 9 foundation. If you know. 10 THE WITNESS: I -- your 11 characterization seems reasonable, you know, 12 because he encouraged us to get in touch with 13 MALDEF and to have them get in touch ultimately 14 with the Latino community here in Milwaukee. So 15 that was my understanding. 16 BY MR. EARLE: 17 Q Okay. So I'm going to constrain my -- my 18 examination of you, the scope of this examination, 19 this direct examination, to the consultation, 20 the -- with the Latino community in Milwaukee, 21 okay? That's what I'm focusing on. 22 A Okay. 23 Q The -- Chicago is in a different state and -- 24 MR. DAUGHTERY: We'll stipulate to 25 that.</p>	<p style="text-align: right;">Page 113</p> <p>1 with him and the meetings we were in was to get 2 input from the Latino community and that's exactly 3 what we did, as he had advised me to do. 4 Q So you can't give us any testimony about when it 5 was that Professor Gaddie gave this advice to the 6 redistricting team. 7 A Yes, I can. I said that he gave me that advice 8 I think as early as May when he gave me Nina 9 Perales' name and then I started making the 10 contacts. 11 Q All right. Do you know when was the first time 12 that you contacted somebody in the Latino 13 community in Milwaukee? 14 A With a residence in this community? I don't 15 remember. If what you're saying is the residence. 16 I just don't remember. 17 Q Well, all right. You testified at the very 18 beginning of this deposition that you were an 19 experienced election law lawyer, that you -- 20 A I appreciate your characterization, okay, that's 21 fine. 22 Q And you testified that you taught a class for 23 Professor Esenberg on redistricting. 24 A Yes. 25 Q And you've described a decennial?</p>

<p style="text-align: right;">Page 114</p> <p>1 A Like the locusts, you know, what, they come every 2 ten, '80, '90, 2000, 2010, yes. 3 Q Well, given all that experience and knowledge and 4 so forth, how important is it to consult with the 5 Latino community that's being redistricted? 6 A As a legal matter or as a political matter? This 7 is a very is different question when you take the 8 two, separate the two. From a political 9 standpoint, you know, the legislature, it's always 10 important to be in touch with communities all over 11 the state and I don't put the Latino community in 12 any special or different category than the 13 African-American community or the community in 14 Madison or La Crosse or anywhere else. That's 15 important. 16 As a legal matter, I'm concerned about 17 meeting certain legal criteria, and in that 18 respect to the extent that contact helps in that 19 regard, it's a good idea. 20 Q What do you know about the Latino community in 21 Milwaukee? 22 A I would apologize, I don't know a lot about the 23 Latino community. I would not put myself -- as I 24 told you before, I'm not from here, so I -- I 25 certainly know very little about it on a personal</p>	<p style="text-align: right;">Page 116</p> <p>1 Q Well, your recollection is -- 2 A Is it pretty accurate or not? 3 Q Better than mine. I'm not sure I would remember 4 that but -- 5 A Well, I listen but maybe I'm incorrect. 6 Q Well, I'll show you what's been marked as 7 Exhibit 99, which is -- was Exhibit -- yeah, it 8 was Exhibit 99 to the Handrick deposition, and do 9 you recognize this e-mail? 10 A Give me a moment. 11 MR. HODAN: Do you have another copy. 12 MR. EARLE: Sure. 13 THE WITNESS: I apologize, I'm reading 14 it. 15 MR. HODAN: Can we go off the record 16 for a minute? 17 MR. EARLE: Sure. 18 THE VIDEOGRAPHER: We are going off 19 the record at 6:41 p.m. 20 (Discussion off the record.) 21 THE VIDEOGRAPHER: We are back on the 22 record at 6:41 p.m. 23 THE WITNESS: Okay. 24 BY MR. EARLE: 25 Q Do you recall this?</p>
<p style="text-align: right;">Page 115</p> <p>1 level. 2 Q What do you know -- have you ever heard of a 3 street called Cesar Chavez Drive? 4 A Yes. 5 Q What do you know about Cesar Chavez Drive? 6 A Only what I've learned here, that it's an 7 important street in that part of the world, in 8 that part of the city. 9 Q Where did you hear that when you said "I've heard 10 that here"? 11 A The during the course of the discussions that 12 occurred, actually it was after the hearings and I 13 think maybe you mentioned it at the hearings. 14 I can't remember, but at about that time this idea 15 of this particular street where a lot of 16 businesses are located, because I've not -- I've 17 not been on the street -- was an important issue. 18 So that's, as I said, it may well have been your 19 testimony or somebody else's that day but it 20 was -- 21 Q It was after the hearing? 22 A I remember just having discussions after the 23 hearing about it because, as I said, I had not 24 really known much about that street before that. 25 That's at least my recollection.</p>	<p style="text-align: right;">Page 117</p> <p>1 A I do kind of, yes. 2 Q Okay. Let's place it in context. The e-mail that 3 you sent to Adam Foltz, Tad Ottman, Joseph 4 Handrick, Eric McLeod and Ray Taffora was dated 5 July 25th, 2011 at 12:36 p.m.; correct? 6 A Yes. 7 Q And this was after the hearing; correct? 8 A Yes. 9 Q When was this in relationship to the passage of 10 the act? 11 A I don't know. It was prior to the governor 12 signing it, I know that. 13 Q So we can say that this was after the act was 14 passed before the governor signed it; correct? 15 A I believe that's correct. 16 Q So what do you mean, the process still dominates, 17 and you have the word "process" in quotes? 18 A Because the article, I was referring to the fact 19 that the article made comments about the speed of 20 the process. In fact, it was he wishes more time 21 were given to the process and that's Zeus, who I 22 told you, you know, Zeus Rodriguez. So that's 23 what I was referring to. 24 Q Okay. So -- and Zeus was criticizing the -- the 25 redistricting process as being too fast to allow</p>

<p style="text-align: right;">Page 118</p> <p>1 for the community to effectively participate in</p> <p>2 if; correct?</p> <p>3 A I don't know about the latter but I know about the</p> <p>4 former, which is that I -- I understood him to be</p> <p>5 upset that the process had gone forward too</p> <p>6 quickly.</p> <p>7 Q Did you ever discuss that with Zeus?</p> <p>8 A I don't believe I did.</p> <p>9 Q And you say notice the absence of the 50 percent</p> <p>10 senate district claim.</p> <p>11 A Yes.</p> <p>12 Q You're reacting to a claim by JoCasta Zamarripa</p> <p>13 that she thought it might be possible to draw a</p> <p>14 senate district that had a 50 percent Latino</p> <p>15 population?</p> <p>16 A I had understood her testimony -- she was not</p> <p>17 testifying but she was during the course of the</p> <p>18 hearing that took place, I believe on the 13th,</p> <p>19 JoCasta had repeatedly suggested that there could</p> <p>20 be a majority senate district. And in the course</p> <p>21 of that, I did not understand it to be she</p> <p>22 thought, she said it could be and I believe I</p> <p>23 thought she said we actually have a map. It</p> <p>24 wouldn't have surprised me that she had maps</p> <p>25 because -- because the Democrats had access to the</p>	<p style="text-align: right;">Page 120</p> <p>1 sentence of the -- of this e-mail?</p> <p>2 A No, no, that's not what I'm referring to. We just</p> <p>3 discussed the Cesar, the Chavez Drive question,</p> <p>4 which as I told you I was unaware of to speak for</p> <p>5 all intents and purposes. And the possibility</p> <p>6 that meeting the Latino community's needs or</p> <p>7 desires, even this late in the process, seemed</p> <p>8 like something that might be able to be done given</p> <p>9 the -- given Chavez Drive. That was simply my</p> <p>10 observation, but I had no specific knowledge of it</p> <p>11 or otherwise. I was observing that it appeared</p> <p>12 that the concern was not the senate district but</p> <p>13 was the way in which 8 and 9 had been divided.</p> <p>14 Q So I just want to be clear. On June 25th, after</p> <p>15 the passage of the act before the governor had</p> <p>16 signed it, you were --</p> <p>17 MR. DAUGHTERY: July 25th actually.</p> <p>18 MR. EARLE: Thank you. I appreciate</p> <p>19 that. It's getting late. I'm sorry.</p> <p>20 MR. DAUGHTERY: I understand.</p> <p>21 BY MR. EARLE:</p> <p>22 Q On July 25th, 2011 after the act had been passed,</p> <p>23 Act 43 had been passed into law by the legislature</p> <p>24 before the governor had signed it into law, you</p> <p>25 were stating here that the alternative of</p>
<p style="text-align: right;">Page 119</p> <p>1 same software and it was -- it was surprising to</p> <p>2 me at the hearing that they did not present maps</p> <p>3 and present alternatives because everybody had the</p> <p>4 same software and the same information now for</p> <p>5 six, eight months.</p> <p>6 And so when she said that, I</p> <p>7 immediately -- I was surprised and I -- I remember</p> <p>8 that I went to our people because I didn't run the</p> <p>9 maps. So that's why I'm saying that because I was</p> <p>10 very surprised that you could draw 50 percent,</p> <p>11 because if we could, then we probably would have</p> <p>12 tried.</p> <p>13 Q Now, I must focus, the thing I'm most interested</p> <p>14 in about Exhibit 99 is the last sentence where</p> <p>15 you -- why don't you read the last sentence into</p> <p>16 the record.</p> <p>17 A Thus, the alternative of simply redrawing within</p> <p>18 the area remains a real possibility.</p> <p>19 Q Now, within the article, there is the -- the</p> <p>20 suggestion that -- that the redistricting dilutes</p> <p>21 the community by dividing it amongst two</p> <p>22 districts; correct?</p> <p>23 A I think that's a fair reading of what's said</p> <p>24 there.</p> <p>25 Q And that's what you're referring to in the last</p>	<p style="text-align: right;">Page 121</p> <p>1 redrawing within that area remains a possibility,</p> <p>2 and you're speaking here in the context of</p> <p>3 reconfiguring 8 and 9 within the boundaries of</p> <p>4 those two districts; correct?</p> <p>5 A That's a fair statement.</p> <p>6 Q So at this point in time, as a member of the legal</p> <p>7 team --</p> <p>8 A Yes.</p> <p>9 Q -- because you were still a member of the legal</p> <p>10 team; correct?</p> <p>11 A Yes.</p> <p>12 Q It was your view that it was a possible to</p> <p>13 reconfigure 8 and 9 in a way that -- that</p> <p>14 satisfied concerns of the community that you had</p> <p>15 been previously unaware of.</p> <p>16 A There's a lot of editorial comment there, Peter.</p> <p>17 Let me be very explicit. At this point in time</p> <p>18 that comment as it would be today was that if as a</p> <p>19 practical matter one could avoid litigation by a</p> <p>20 simple change of boundary within 3, so it can be</p> <p>21 confined within that, you know, I'm a trial</p> <p>22 lawyer. We try to solve problems and that comment</p> <p>23 was about trying to solve a problem that</p> <p>24 apparently some people in the community believed</p> <p>25 but it was not a comment, it absolutely was not a</p>

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<p>1 comment on the legality or the legitimacy of the 2 districts that were there. 3 Q But it was a comment that recognized the legality 4 of an effort to alter the district so as to 5 respond to concerns of a community. 6 A There are an infinite number of ways to draw 7 districts, infinite in the state, and this was -- 8 your comment is correct, I think, Peter. You 9 know, at that point in time, as I would today, you 10 know, it -- it can be done. 11 Q Okay. Let's get to -- so I understand this. 12 You're saying today it could be done. 13 A I understand that the discussions that are going 14 on. I'm not -- I'm not oblivious to the 15 discussions that were going on based on the Court 16 trying to get the legislature to redo some things. 17 Q I want to try and figure out when was the first 18 time you had contact with Manny Perez. 19 A You probably have some e-mails. 20 Q I do. 21 A Okay. 22 Q But we want to get to the -- the truth of this as 23 accurately as we can, so I have two e-mails. 24 A I wish life were so black and white. I'll do the 25 best.</p>	<p>1 Q Do you know if Scott Walker ever appointed him to 2 a cabinet post? 3 A No, I don't. Did he? 4 Q Yes, he did. 5 A No, I didn't know that. 6 Q Okay. Okay. All right. But outside of -- in 7 what context do you know him then? 8 A I said, I'm -- I don't know how I got to know him. 9 I just simply don't know but he's well known. 10 Q Do you socialize? 11 A No, no, I told you just in passing we've known 12 each other. 13 Q I'm trying to figure out which one is the first 14 one. I'm going to show you what's been marked 15 already as Exhibit 209 but -- I assume this is not 16 on the list. It's July 12, 2011 at 3:32 p.m. Why 17 don't you take a moment and read the -- 18 A Okay. 19 Q That 209 is a trial exhibit number and it hasn't 20 been introduced at trial yet, so it will be. 21 A It will be. 22 Q So if we mark it here, it will have a different 23 number. So you remember this e-mail? 24 A Now that I've read it, yes. 25 Q Okay. And this is Tuesday, July 12th, 2011 at</p>
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<p>1 Q But let's talk about Manny Perez. You know him; 2 correct? 3 A I've known him, yes. I've said that before. 4 Q How do you know him? 5 A I don't know how I know him. He's a well-known 6 person. 7 Q In what circle is he a well-known person? 8 A Well, among the people I mentioned to you, I 9 suppose. He's a community leader. He was well 10 known. 11 Q In what community is he a leader? 12 A The state of Wisconsin. 13 Q In the Wisconsin state community he's a leader? 14 A He's extremely, he's well known, yes. 15 Q And how is it that he's well known? 16 A Well, if what you're fishing for is because he's a 17 Latino, I don't know. 18 Q I'm not fishing. I'm trying to figure out why it 19 is that you think he's a well-known person. 20 A Because I've known him and I don't know a lot of 21 people from Milwaukee. 22 Q Okay. What position has he held? 23 A I don't know. I don't know. I just know of him. 24 I know we've met on occasion. That's how I know 25 him.</p>	<p>1 3:32 p.m., okay? Will you read the e-mail into 2 the record, please? 3 A MALDEF is going to publicly endorse the 60-54 map. 4 Q And you put an exclamation after that sentence; 5 right? 6 A Yes, yes. 7 Q Continue. 8 A The will send, there's a grammatical error there, 9 not surprising given my typing skills. The will 10 send someone to testify, paren Alonzo Rivas, end 11 paren. He is testifying in St. Charles, 12 Illinois -- that's IL in this case -- at 9, so he 13 may not get here until over the noon hour. We 14 will -- 15 Q Before you go on to the next sentence, you meant 16 to say they; right? 17 A What, did I misread it? 18 Q You read it accurately as it's written. 19 A They. I think that's right. I think it's they. 20 Q So is the judges reading this exhibit will be able 21 to know that what you intended to write there was 22 they would send some. 23 A I assume that's what I intended to write because 24 that makes sense. 25 Q Is there any other possible --</p>

<p style="text-align: right;">Page 126</p> <p>1 A No. My wife is a great one for letters but I'm 2 not, so it certainly looks like "they" would be 3 the right word. 4 Q I think we share the same typing skills. 5 A Thank you. Please don't hold me too responsible 6 on this. 7 Q Next sentence? 8 A We will certainly want him to testify as this will 9 take the largest legal fund for the Latino 10 community off the table in any later court battle. 11 In the meantime, I am hooking them up with 12 Manny Perez to see if they can coordinate 13 testimony all in favor of the 60-54 option. 14 Period, Jim. 15 Q Let's talk about the content of this. So you were 16 thinking ahead to the benefit of having Alonzo 17 Rivas testify because by doing so it was your view 18 that that would make unavailable to the Latino 19 community in Milwaukee the largest legal fund for 20 later courtroom challenges to the redistricting 21 plan. That's accurate; right? 22 A Well, if you read the e-mail -- 23 MR. HODAN: Objection only to the 24 extent that I believe there was already a pending 25 lawsuit. So I think you said later challenges but</p>	<p style="text-align: right;">Page 128</p> <p>1 Q I'm just trying to interpret them as reasonably as 2 I can and I'm trying to get to the truth of this 3 matter. 4 A You're trying to take certain inferences from that 5 and that's fine. 6 MR. HODAN: Why don't you ask him a 7 question? 8 BY MR. EARLE: 9 Q So you wanted Alonzo Rivas to testify; correct? 10 A Yes. 11 Q That proposition is a fact? 12 A Yes. 13 Q And that covers the -- 14 A I wanted somebody from MALDEF to testify, whether 15 it was Alonzo. I did not meet him until yesterday 16 in court. That's the first time I met him. 17 Q But you used the word "him" in that sentence. 18 A That's what I said. I was told he was going to do 19 here, but the way you had said it suggested that 20 it mattered to me who was and it didn't. I was 21 more concerned about MALDEF taking a public 22 position. 23 Q So the first part of that sentence says we will 24 certainly want him to testify. Those words, just 25 those words alone.</p>
<p style="text-align: right;">Page 127</p> <p>1 I believe there was already a challenge at that 2 time. 3 MR. EARLE: There was not a challenge 4 by any Latino community. 5 MR. HODAN: That's fine. Just so the 6 record's clear. There had already been a pending 7 lawsuit. 8 THE WITNESS: My comment in here is 9 what it is. 10 BY MR. EARLE: 11 Q So but I just want to make the record very clear. 12 I mean, you're going to stand by this comment, and 13 the comment means that it was your intent that by 14 facilitating this testimony, one of the benefits 15 of facilitating the testimony of Alonzo Rivas, you 16 would be making unavailable to the Latino 17 community access to a potential funding source is 18 for a legal challenge to the redistricting plan. 19 A Now you're assuming a lot of things and that would 20 not be correct. 21 Q Okay. So you deny -- okay. Well, let's break it 22 down here. I mean, it's, these were your words, 23 you selected these words; correct? 24 A Yeah, these words. Not the ones you just said but 25 these words I did say.</p>	<p style="text-align: right;">Page 129</p> <p>1 A That's what it says. 2 Q So you wanted somebody from MALDEF to testify but 3 you used the word "him," referring to Alonzo Rivas 4 because he had been identified to you. 5 A Yes. 6 Q And you had never met him before? 7 A No, not till yesterday. 8 Q And then you have the second half of that 9 sentence, and you say as this will. Okay. That 10 means there is a purpose for wanting him to 11 testify; correct? 12 A One of the purposes, yes. 13 Q And one of those purposes was that it would take 14 the largest legal fund for the legal community off 15 the table in a later court battle; right? 16 A That was one of the reasons, yes. 17 Q Okay. You did not want MALDEF's funding to be 18 available to the Latino community for a possible 19 legal challenge; correct? 20 A You'll forgive me but I did know that -- I look at 21 it today and it says will take the largest legal 22 fund. I don't think it ever occurred to me about 23 money the way you're suggesting it. MALDEF has an 24 extraordinary national reputation and they are a 25 legal fund, but you're suggesting that it had to</p>

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<p>1 do with money and that is simply not connect.</p> <p>2 I would not have thought of it that way at that</p> <p>3 time.</p> <p>4 And I realize when you read those</p> <p>5 words now they are the largest legal fund but it</p> <p>6 had -- my interest there did not have to do with</p> <p>7 money but certainly had to do with MALDEF taking a</p> <p>8 public position given their prestige that this</p> <p>9 matter had been resolved correctly and properly.</p> <p>10 Q All right. Well, let's go to the second</p> <p>11 paragraph, okay? In the meantime and I'll read it</p> <p>12 into the record to make it -- why don't you go</p> <p>13 ahead.</p> <p>14 A Whatever. I think I already had. The last</p> <p>15 paragraph?</p> <p>16 Q Yeah.</p> <p>17 A In the meantime I am hooking them up with</p> <p>18 Manny Perez to see if they can coordinate</p> <p>19 testimony all in favor of the 60-54 option.</p> <p>20 Q Okay. So this is the first -- is this the first</p> <p>21 time that to your recollection that you dealt with</p> <p>22 Manny Perez in terms of the redistricting plan?</p> <p>23 A I believe so and, in fact, the -- I probably</p> <p>24 looked a little quizzical when I read that a</p> <p>25 minute ago because I thought Ray Taffora had been</p>	<p>1 A You guys are ready.</p> <p>2 Q Huh?</p> <p>3 A You guys are ready for trial on all these</p> <p>4 exhibits.</p> <p>5 Q We were ready on Tuesday.</p> <p>6 A That's when I wanted to be on vacation.</p> <p>7 MR. DAUGHTERY: Could I get a copy,</p> <p>8 please.</p> <p>9 MR. EARLE: Sorry.</p> <p>10 THE WITNESS: Oh this is a bit later,</p> <p>11 okay.</p> <p>12 BY MR. EARLE:</p> <p>13 Q Well, to be precise, this is exactly --</p> <p>14 A These are all listed. Would you check these,</p> <p>15 please? Just to make sure that -- and they're</p> <p>16 actually marked 1 through 9, so if you look at my</p> <p>17 documents there, you can just look at that. You</p> <p>18 can look at your list. See if 1 through 9 are</p> <p>19 okay.</p> <p>20 MR. DAUGHTERY: Yeah, the handwritten</p> <p>21 1 through 9.</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. DAUGHTERY: They're fine.</p> <p>24 MR. EARLE: Okay.</p> <p>25</p>
Page 131	Page 133
<p>1 involved in making that contact and I may be</p> <p>2 incorrect but Ray must have given me the number</p> <p>3 for Manny because I don't believe I would have had</p> <p>4 his number without Ray.</p> <p>5 Q And you considered it was important to get Manny</p> <p>6 to speak in favor of the map because in your view</p> <p>7 he was a leader of the Latino community?</p> <p>8 A Among the reasons he is a leader and that is</p> <p>9 certainly reasonable, yes.</p> <p>10 Q And this comment was made on July 12, 2011 at 3:30</p> <p>11 in the afternoon, the day before the hearing;</p> <p>12 correct?</p> <p>13 A Yes.</p> <p>14 Q Okay. And the fact of the matter is that</p> <p>15 Manny Perez didn't even have a copy of the map at</p> <p>16 that point; isn't that true?</p> <p>17 A I don't know that.</p> <p>18 Q You didn't provide him with a copy of the map,</p> <p>19 isn't that true?</p> <p>20 A I don't know what I provided him. The maps were</p> <p>21 published, so at this point presumably he had them</p> <p>22 but I don't know.</p> <p>23 Q Okay. Let's go to the second e-mail involving</p> <p>24 Manny Perez. It's already marked as trial</p> <p>25 Exhibit 206.</p>	<p>1 BY MR. EARLE:</p> <p>2 Q So let's go to the --</p> <p>3 A Is this running backward sequence?</p> <p>4 Q Well, there's a sequence here having to deal with</p> <p>5 JoCasta Zamarripa, and I wasn't going to ask you</p> <p>6 about that unless you want to talk about JoCasta</p> <p>7 Zamarripa?</p> <p>8 A We talked about her earlier. And so I whichever</p> <p>9 one you would like. Tell me which one you want.</p> <p>10 Q Well, I'm interested in the Manny Perez contact.</p> <p>11 MR. DAUGHTERY: Which number?</p> <p>12 BY MR. EARLE:</p> <p>13 Q Number one and which was exactly according to my</p> <p>14 calculation here --</p> <p>15 A Thirteen minutes.</p> <p>16 Q Thirteen minutes after your prior e-mail.</p> <p>17 A Yeah.</p> <p>18 Q So now you -- so in those 13 minutes you had</p> <p>19 confirmed with Manny Perez that he was willing to</p> <p>20 come testify for the map?</p> <p>21 A I don't know. I could have talked to him before</p> <p>22 that. It just says I'm hooking them up with</p> <p>23 Manny Perez, which means I was presumably giving</p> <p>24 MALDEF -- it would probably be Elisa Alfonso the</p> <p>25 phone number for Manny. So that's what this --</p>

<p style="text-align: right;">Page 134</p> <p>1 I'm looking -- I apologize. I'm looking at 209.</p> <p>2 I'm hooking them up with Manny.</p> <p>3 Q Let's look at the e-mail and see what we can</p> <p>4 derive from that. Why don't you read it into the</p> <p>5 record.</p> <p>6 A Sure. Tad and Adam, you can let the chair know</p> <p>7 that Manny Perez and others from the Latino</p> <p>8 community will be there to testify for a 60-54</p> <p>9 map. You will need to have a large map showing</p> <p>10 that district. You should prepare that and bring</p> <p>11 it with. You should still I think talk about the</p> <p>12 three alternatives. That way it looks like what</p> <p>13 it is and -- and again I misspelled. I think it's</p> <p>14 an, an effective negotiation of something the</p> <p>15 community wants. Congratulations. Manny is</p> <p>16 talking right now to MALDEF to coordinate their</p> <p>17 testimony. Jim.</p> <p>18 Q Okay. So from the last sentence, we can tell that</p> <p>19 your communication with Manny occurred in those 13</p> <p>20 minutes; correct?</p> <p>21 A I --</p> <p>22 Q Because in the first sentence you were going to --</p> <p>23 you were going to hook them up and in the second</p> <p>24 sentence Manny is now doing it?</p> <p>25 A You read an awful lot into the words. You know,</p>	<p style="text-align: right;">Page 136</p> <p>1 that somehow it was not real and effective and</p> <p>2 dealt with the legal issues that had to be dealt</p> <p>3 with.</p> <p>4 Q Well, Mr. --</p> <p>5 A And that was not my purpose. That's the way it</p> <p>6 looks like what it is, an effective negotiation of</p> <p>7 something the community wants. I would not call</p> <p>8 that appearance. I would call that exactly what I</p> <p>9 said, effective negotiation to lead to a result</p> <p>10 that was legal and effective for the community and</p> <p>11 the state.</p> <p>12 Q And that's predicated on Manny Perez' support when</p> <p>13 starting the day before the hearing, the afternoon</p> <p>14 before the hearing.</p> <p>15 A Now you're assuming all kinds of things that</p> <p>16 aren't -- that aren't correct.</p> <p>17 Q Can you identify any document anywhere that would</p> <p>18 indicate you had a prior contact with Manny Perez</p> <p>19 or anybody on the legal team had a prior contact</p> <p>20 with Manny Perez about the redistricting process?</p> <p>21 A I don't know what's been produced in this case, so</p> <p>22 I don't know. I don't have any recollection of</p> <p>23 other documents.</p> <p>24 Q Now, you were monitoring the press as it pertained</p> <p>25 to the activity of the Latino community in</p>
<p style="text-align: right;">Page 135</p> <p>1 and I might have. I don't recall, but it looks to</p> <p>2 me like I gave Manny's number to MALDEF, and so my</p> <p>3 last comment about Manny is talking to MALDEF to</p> <p>4 coordinate their testimony could candidly just be</p> <p>5 an acknowledgment that I had given them their</p> <p>6 number and they were going to talk. It may have</p> <p>7 been that I talked to Manny. I just don't</p> <p>8 remember. I don't know why that would be</p> <p>9 important one way or the other, but I just don't</p> <p>10 know who talked to whom first. I assumed MALDEF</p> <p>11 was going to talk to Manny.</p> <p>12 Q Now, who were the others from the Latino community</p> <p>13 who will be there to testify?</p> <p>14 A I don't know.</p> <p>15 Q Can you recollect anybody else besides Manny Perez</p> <p>16 who would be there to testify?</p> <p>17 A Not as I sit here today.</p> <p>18 Q Is it accurate to say that you were in charge of</p> <p>19 coordinating the appearance of the Latino</p> <p>20 community as being supportive of that map?</p> <p>21 A No.</p> <p>22 Q That was part of Act 43?</p> <p>23 A No, that would not be correct.</p> <p>24 Q How is it that that is not a truthful statement?</p> <p>25 A Because you used the term appearance to suggest</p>	<p style="text-align: right;">Page 137</p> <p>1 Milwaukee regarding redistricting; correct?</p> <p>2 A That would not be correct. I was not monitoring</p> <p>3 the press.</p> <p>4 Q Who was?</p> <p>5 A I don't know that anybody was. From time to time</p> <p>6 I would get articles but I don't think anybody --</p> <p>7 I know of no effort to monitor the community's</p> <p>8 press or the press in Milwaukee.</p> <p>9 Q Isn't it true that you -- whenever the Latino</p> <p>10 community of Milwaukee appeared in the newspaper</p> <p>11 and with regards to the redistricting process in</p> <p>12 Milwaukee, that you would clip the article and</p> <p>13 distribute it to the rest of the team?</p> <p>14 A I recall one instance of that prior to the hearing</p> <p>15 but if there were others, I just don't recall</p> <p>16 them.</p> <p>17 Q We just covered one of those instances; right?</p> <p>18 There was an article that you distributed to the</p> <p>19 rest of the team; correct?</p> <p>20 A I thought that was after the hearing.</p> <p>21 Q That's what I mean, after the hearing?</p> <p>22 A I thought you said before the hearing.</p> <p>23 Q You did before the hearing as well, didn't you?</p> <p>24 A Well, no, I told you I knew of -- I recall an</p> <p>25 article, I believe it was about something you had</p>

<p style="text-align: right;">Page 138</p> <p>1 been working on, that came to me sometime in June, as I recall, but that's about all that I recall.</p> <p>2</p> <p>3 Q Showing you what's been marked as Exhibit 96 from the Handrick deposition. I'm pretty sure it was not on the list because it was a Handrick deposition.</p> <p>4</p> <p>5</p> <p>6</p> <p>7 A So it must have already gotten there. That's good. Can you give me a moment to look at this?</p> <p>8</p> <p>9 Q Sure.</p> <p>10 A Okay, now I do remember.</p> <p>11 Q The article appears on the back page.</p> <p>12 A That's because you guys -- no, you're not -- yes, you are environmentally conscious. It's two-sided. Very good.</p> <p>13</p> <p>14</p> <p>15 Q Have you had an opportunity review it?</p> <p>16 A No, I'm still looking at it. Okay.</p> <p>17 Q And I have to apologize, I mischaracterized when I said you and it's, in fact -- perhaps it's a function of my age or the hour of the day. This was clipped by Adam Foltz and sent to you?</p> <p>18</p> <p>19</p> <p>20</p> <p>21 A Yes.</p> <p>22 Q And other members of the team?</p> <p>23 A That's my recollection.</p> <p>24 Q So just to be accurate, on June 6, 2011, at 8:00 p.m., Adam Foltz sent an e-mail to Keith</p> <p>25</p>	<p style="text-align: right;">Page 140</p> <p>1 A Again, you're reading into it as if I would have noticed that. I do now and then I see there was a group and I had no knowledge of this group before this and I didn't take away that who they were or what they were after this. I simply knew there was a group in Milwaukee that had filed a statement on the aldermanic districts. That's all I knew.</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9 Q Well, the attached press release from Voces de la Frontera describes the organization in substantial detail, doesn't it?</p> <p>10</p> <p>11</p> <p>12 A Well, it does but I probably skipped that paragraph because it wasn't what I would have been interested in. I would have been interested in the numbers and the configurations of districts. So I'm telling you I simply -- I wouldn't have -- it wouldn't have made any impression. And I don't mean that meanly. I just mean that it wouldn't have made any impression.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Q So you responded to this e-mail like 40 minutes -- the next day in the morning; correct?</p> <p>21</p> <p>22 A Yes.</p> <p>23 Q And now why did you take this particular e-mail response and caption it in large bold type attorney-client privileged, litigation</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 139</p> <p>1 Gaddie, you and Eric McLeod with copies to Tad Ottman and Joseph Handrick; correct?</p> <p>2</p> <p>3 A Yes.</p> <p>4 Q And the caption of the article was The Hispanic Community Speaks in Milwaukee; correct?</p> <p>5</p> <p>6 A That's the caption of the article.</p> <p>7 Q And it was a press release from Voces de la Frontera?</p> <p>8</p> <p>9 A Right. Yes.</p> <p>10 Q So from this we know that you had been receiving -- you had received information at least once --</p> <p>11</p> <p>12</p> <p>13 A Yes.</p> <p>14 Q -- prior to the adoption of the map and relatively early in the process, this is June 7 of 2011; correct?</p> <p>15</p> <p>16</p> <p>17 A I'm not sure it was early in the process, but it's consistent with my testimony a minute ago that I recall receiving at least one clipping related to the Milwaukee Latino community.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 Q And as a result of this, you certainly understood that there was a group called Voces de la Frontera; right?</p> <p>22</p> <p>23</p> <p>24 A I didn't know.</p> <p>25 Q What --</p>	<p style="text-align: right;">Page 141</p> <p>1 preparation?</p> <p>2 A Why did I do that?</p> <p>3 Q Yeah.</p> <p>4 A Because the issue of percentages was a legal question that needed to be addressed in the context of minority districts. And so I would have viewed this and I would view it today as the classic attorney-client privilege, certainly attorney work product privileged. So I view it then and I view it now as that way.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11 Q So on June 7 of 2011, more than a month before the public hearing, you were preparing for litigation relative to the Latino community?</p> <p>12</p> <p>13</p> <p>14 A We were preparing for litigation, period, throughout the process. That's why I was retained in large measure was to make sure that our maps could survive the inevitable litigation that comes in this day and age.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19 Q But you focused the litigation preparation component of this e-mail on the Latino community; isn't that correct?</p> <p>20</p> <p>21</p> <p>22 A That's what this e-mail's about, yes.</p> <p>23 Q So this is why you wanted to take MALDEF off the table?</p> <p>24</p> <p>25 A No. I was in touch with MALDEF at this point.</p>

<p style="text-align: right;">Page 142</p> <p>1 I'd already been in touch with them.</p> <p>2 Q All right. Okay. So why don't you read into the</p> <p>3 record what the body of the e-mail says.</p> <p>4 A The top one?</p> <p>5 Q Yeah.</p> <p>6 A Just the top one. The problem here is that the</p> <p>7 group wants -- another misspelling, want</p> <p>8 70 percent. This is classic overkill. I am</p> <p>9 already very worried about the 65 percent and now</p> <p>10 we have groups wanting 70 percent. Can we see</p> <p>11 what that would like look. I assume it makes the</p> <p>12 second assembly district not much better than 50</p> <p>13 to 55 percent. Jim.</p> <p>14 Q So when I read this, I concluded that you had</p> <p>15 actually taken a look at a 70 percent district as</p> <p>16 a result of your directive to the other members of</p> <p>17 the team.</p> <p>18 A Well, I'm asking them, at this point in time I'm</p> <p>19 asking them to -- what would it look like. So I</p> <p>20 hadn't looked at a 70 percent district at this</p> <p>21 point.</p> <p>22 Q But we established earlier that you were one of</p> <p>23 two senior members of this team; correct?</p> <p>24 A Yeah.</p> <p>25 MR. DAUGHTERY: Object as to misstates</p>	<p style="text-align: right;">Page 144</p> <p>1 55 percent in the second district and thus would</p> <p>2 lose the benefit of -- to the Latino community of</p> <p>3 having two districts. So I wouldn't have needed a</p> <p>4 map for that. I mean, a printed map.</p> <p>5 Q No one on the redistricting team ever contacted</p> <p>6 Voces de la Frontera, isn't that true, before</p> <p>7 the --</p> <p>8 A I don't know.</p> <p>9 Q Well, you're not aware of any information that</p> <p>10 would indicate that anybody from the redistricting</p> <p>11 team ever contacted Voces de la Frontera; right?</p> <p>12 A I'm not aware of any, no.</p> <p>13 Q And you never did.</p> <p>14 A I never personally did. The first time I met was</p> <p>15 you at the hearing on the 13th of July when I saw</p> <p>16 you testify.</p> <p>17 Q Okay. And nobody from the redistricting team ever</p> <p>18 contacted the Latino -- well, let me strike. Let</p> <p>19 me ask a couple of foundation questions first.</p> <p>20 You knew that Latino organizations in Milwaukee</p> <p>21 had formed a Latino Redistricting Committee;</p> <p>22 correct?</p> <p>23 A I can't say that I knew that with certainty but</p> <p>24 having looked at this e-mail, I must have known it</p> <p>25 at the time.</p>
<p style="text-align: right;">Page 143</p> <p>1 his prior testimony, but subject to that go ahead</p> <p>2 and answer.</p> <p>3 THE WITNESS: I'm an old guy that was</p> <p>4 on the team, yeah.</p> <p>5 BY MR. EARLE:</p> <p>6 Q Okay. So when you make a directive to the team,</p> <p>7 you want to see what this looks like. I mean, I'm</p> <p>8 assuming that actually happened; right? I mean,</p> <p>9 that happened?</p> <p>10 A I hope it happened.</p> <p>11 Q So you took a look at a 70 percent district.</p> <p>12 A Subsequent to this e-mail. I assume I did.</p> <p>13 I don't know that. I asked them to tell me what</p> <p>14 it would look like.</p> <p>15 Q Well, what happened to the maps that demonstrated</p> <p>16 the 70 percent district?</p> <p>17 A I don't know.</p> <p>18 Q Did they get destroyed?</p> <p>19 A I don't know that there was a map. You've made an</p> <p>20 assumption about that. I asked for a map. I</p> <p>21 asked for somebody, can you see what that would</p> <p>22 look like.</p> <p>23 Q Okay.</p> <p>24 A And they undoubtedly got back and confirmed with</p> <p>25 me that you couldn't do better than 50 to</p>	<p style="text-align: right;">Page 145</p> <p>1 Q Well, you knew that there was -- you knew --</p> <p>2 A This e-mail meaning the one you just showed me.</p> <p>3 I just wanted to make clear I just was pointing to</p> <p>4 it and it was 96.</p> <p>5 Q Got you. Putting 96 aside --</p> <p>6 A Yes.</p> <p>7 Q Okay. During the aldermanic redistricting for the</p> <p>8 city of Milwaukee, you were aware that the Latino</p> <p>9 community of Milwaukee had formed a group called</p> <p>10 the Latino Redistricting Committee; correct?</p> <p>11 A The only knowledge I had would have been from --</p> <p>12 that I can remember is from Exhibit 96. That</p> <p>13 would have been the sum of my knowledge at the</p> <p>14 time.</p> <p>15 Q You would have been aware of all articles that</p> <p>16 appeared in the Milwaukee Journal or the Wheeler</p> <p>17 Report or WisPolitics about advocacy on behalf of</p> <p>18 the Latino community with regards to redistricting</p> <p>19 at the municipal level; correct?</p> <p>20 A No, no, I wouldn't. I would not.</p> <p>21 Q So it's your testimony you never heard of the</p> <p>22 Latino Redistricting Committee then?</p> <p>23 A No, I didn't say that. I hope I didn't say that</p> <p>24 because I didn't mean to say that.</p> <p>25 Q I don't want to put words in your mouth.</p>

<p style="text-align: right;">Page 146</p> <p>1 A I said that Exhibit 96 reminds me that there was 2 an article about a group that was involved in the 3 aldermanic process here in Milwaukee County. 4 I have no other recollection of knowing about this 5 group or other groups that might have been 6 involved at the aldermanic level in Milwaukee 7 County or the city of Milwaukee.</p> <p>8 Q The fact of the matter is there was no effort to 9 contact anybody in Milwaukee's Latino community 10 during the month of June; am I right?</p> <p>11 MR. HODAN: By whom?</p> <p>12 MR. EARLE: By anybody on the 13 redistricting team.</p> <p>14 THE WITNESS: I don't know. I don't 15 know that. That would be incorrect because I was 16 in touch with MALDEF and --</p> <p>17 BY MR. EARLE:</p> <p>18 Q I said the Latino community in Milwaukee.</p> <p>19 A Well, they were being encouraged to talk to the 20 community here in Milwaukee. I mean, I -- but 21 I had no connection. I mean, the answer is no, 22 I didn't make any calls.</p> <p>23 Q What do you know about the, for lack of a better 24 term, the cultural geography of the area 25 surrounding Milwaukee's Latino community?</p>	<p style="text-align: right;">Page 148</p> <p>1 Q And you're aware that minority groups, as they 2 move into areas that were previously predominantly 3 white or populated by people of Caucasian 4 ethnicities, European ethnicities, that sometimes 5 those folks or in those neighborhoods react 6 negatively to the movement of the folks, 7 minorities into their neighborhoods; correct?</p> <p>8 A No. I kind of -- no, I mean, I, you know, we all 9 read what goes on. I have not lived in a 10 community where that has happened. I grew up in a 11 community that was 40 percent Hispanic, and in 12 that community there was never one part of town or 13 another part of town. So -- and I'm aware in 14 Chicago, where my members of my family live, that 15 they live in communities in which Hispanic 16 populations have moved in next door and nobody's 17 moved out. So I don't think that's correct.</p> <p>18 Now, I am aware, but I have to add 19 that one of the things we looked at in 1990, 2000 20 and in 2010 were the transitions that were 21 occurring in both the African-American community 22 and in the Latino community here, and you can see 23 that -- the very thing you're talking about. You 24 can see it demographically. You can see it on 25 what I call heat maps that show the growth of</p>
<p style="text-align: right;">Page 147</p> <p>1 MR. DAUGHTERY: Object to the extent 2 in terms of ambiguous but subject to that, go 3 ahead and answer.</p> <p>4 THE WITNESS: I'm not terribly 5 familiar with it. If you're talking about the 6 surrounding area, my --</p> <p>7 BY MR. EARLE:</p> <p>8 Q Let me back up and since he objected to the term I 9 used. It's -- I guess I can understand that. 10 It's a reasonable objection. I present to you the 11 concept of a cultural geography, if you will. Do 12 you know what I mean when I say that?</p> <p>13 A No. I'm not trying to be difficult.</p> <p>14 Q No, I'm going to clarify.</p> <p>15 A A lot of people could mean a lot of things.</p> <p>16 Q But you recognize that in a city like Milwaukee 17 you have neighborhoods that have an ethnic 18 identity, ethnic identities of various types; 19 right?</p> <p>20 A Wonderfully, yes.</p> <p>21 Q And you're also familiar with the idea that some 22 neighborhoods undergo racial or ethnic transitions 23 as a result of movement of ethnic groups over 24 time; correct?</p> <p>25 A Yes, yes.</p>	<p style="text-align: right;">Page 149</p> <p>1 populations over time in certain areas. In fact, 2 I've spoken about that.</p> <p>3 And there's no question that in 4 Milwaukee based on those maps, that there has been 5 a tremendous growth in the Latino community in 6 certain directions that were fairly predictable 7 candidly even 20 years ago, ten years ago and the 8 present. So that's what I know about it. I'm 9 not -- because I'm looking at it from that 10 perspective.</p> <p>11 Q You sat here to say, though, that you don't know 12 anything about that transitioning neighborhood 13 south of the old 8th assembly district?</p> <p>14 A No, I have no -- I have no -- what I would call 15 really personal knowledge of that. No, I don't.</p> <p>16 MR. EARLE: Let's pause for a second 17 and go off the record.</p> <p>18 THE VIDEOGRAPHER: We are going off 19 the record at 7:25 p.m. 20 (A recess was taken.) 21 THE VIDEOGRAPHER: We are back on the 22 record at 7:37 p.m.</p> <p>23 BY MR. EARLE:</p> <p>24 Q All right. Showing you what's been marked already 25 as Exhibit 176.</p>

<p style="text-align: right;">Page 150</p> <p>1 MR. EARLE: I'm sure, Patrick, you're</p> <p>2 very well aware of this exhibit. You've seen it a</p> <p>3 lot in depositions.</p> <p>4 BY MR. EARLE:</p> <p>5 Q This is an exhibit that was prepared at the</p> <p>6 request of professor Ken Mayer, and what it shows</p> <p>7 is an overlay of the 8th and 9th assembly</p> <p>8 districts as currently configured over the old</p> <p>9 assembly districts.</p> <p>10 A So these are -- this 8th and 9th are the existing</p> <p>11 presently, these are the proposed.</p> <p>12 Q 8th and 9th are Act 43 in yellow.</p> <p>13 A Okay -- this -- I apologize. Tell me again.</p> <p>14 Q So 8 and 9 are the yellow lines and under Act 43.</p> <p>15 A Okay. So this is Act 43 and those are the old</p> <p>16 districts. Got it.</p> <p>17 Q So that the tannish red is the old 8 and the kind</p> <p>18 of tan, tan or whatever color is the old 9th. And</p> <p>19 there's a portion of the 19th assembly district in</p> <p>20 darker red that was appended. See it? Now, it's</p> <p>21 accurate to say that the old 8th, when you -- you</p> <p>22 essentially chop the old 8th in half; correct?</p> <p>23 A You know, so it looks like here visually.</p> <p>24 Q And you chop the old 9th basically in half as</p> <p>25 well; correct?</p>	<p style="text-align: right;">Page 152</p> <p>1 A No.</p> <p>2 Q All right. And I just want to be clear. The</p> <p>3 section in the new Act 43 8th that was taken from</p> <p>4 the old 9th, we talked earlier, this is the area</p> <p>5 that you don't know anything about, correct, in</p> <p>6 terms of what it's like as a neighborhood;</p> <p>7 correct?</p> <p>8 A I know the demographic statistics about these</p> <p>9 areas and the growth rates and where they were</p> <p>10 going in the future and where they had been in the</p> <p>11 past, and that's what I utilized. But as I said</p> <p>12 before, I have spent no significant time in the</p> <p>13 neighborhood.</p> <p>14 Q And as I used the term before and explained to you</p> <p>15 the term "cultural geography," you didn't know</p> <p>16 anything about the cultural geography of this area</p> <p>17 from the old 9th; correct?</p> <p>18 A The reason I hesitated when you said that is</p> <p>19 obviously we all know, I mean, if we pay attention</p> <p>20 to Milwaukee, we all know something about these</p> <p>21 various neighborhoods and, you know, but for me to</p> <p>22 suggest that I was an expert or anything like that</p> <p>23 would be just simply incorrect. I have not spent</p> <p>24 a significant amount of time in the neighborhoods</p> <p>25 on the south side of Milwaukee.</p>
<p style="text-align: right;">Page 151</p> <p>1 A Again, that visually that's what it appears.</p> <p>2 Q And then you took the eastern piece of half of the</p> <p>3 old 8th and you attached to it the eastern piece</p> <p>4 of the old 9th; correct?</p> <p>5 A I like the attribution of you.</p> <p>6 MR. HODAN: I was just -- you mean the</p> <p>7 legislature.</p> <p>8 BY MR. EARLE:</p> <p>9 Q Well, no, I mean you. You drew this.</p> <p>10 A I didn't. I didn't personally draw this.</p> <p>11 Q And presented it to the legislature; right?</p> <p>12 A I did not draw this.</p> <p>13 Q I thought this was drawn under your supervision.</p> <p>14 A That would be very different than me drawing it.</p> <p>15 Q Well, it was drawn under your supervision. It was</p> <p>16 drawn at your behest; correct?</p> <p>17 A I don't even think that's correct. I think that</p> <p>18 the map, the process by which this result occurred</p> <p>19 was iterative. It went through a series of steps</p> <p>20 to get to this final product and it was presented</p> <p>21 to the legislature, so as one of three different</p> <p>22 alternatives during the hearing on July 13th. Was</p> <p>23 it three? I think it was three.</p> <p>24 Q But you'd already settled on the map that was to</p> <p>25 be passed by the legislature; correct?</p>	<p style="text-align: right;">Page 153</p> <p>1 Q Okay. All right. Now, in drawing the new 8th,</p> <p>2 the folks that actually did the -- the iterative?</p> <p>3 A Ultimately put it in the computer.</p> <p>4 Q Yeah, right. They did this under your</p> <p>5 supervision. They ended up with 55.3 percent core</p> <p>6 retention in that district; isn't that right?</p> <p>7 A If that's what you say. I don't know. Without</p> <p>8 the statistics in front of me, I don't know.</p> <p>9 Q I'll represent to you that the parties have</p> <p>10 stipulated to that fact.</p> <p>11 A Okay.</p> <p>12 Q Why such a dramatic movement of population?</p> <p>13 I mean, I guess let me just ask you the question</p> <p>14 straight out; all right? According to the facts</p> <p>15 that we've stipulated to in this case, in order to</p> <p>16 equalize the population in the 8th assembly</p> <p>17 district, you and your colleagues drawing these</p> <p>18 maps had to move 2,800 and a certain --</p> <p>19 approximately 2,800 people. But you moved 22,000</p> <p>20 people out and 25,000 people in to accomplish that</p> <p>21 movement, that population adjustment of 2,800</p> <p>22 people. So I ask you, why did you do that?</p> <p>23 A I don't know. I mean, I did -- as I said, there's</p> <p>24 a lot of reasons that various things happen.</p> <p>25 I think I described earlier the ripple effects and</p>

<p style="text-align: right;">Page 154</p> <p>1 the changes that occur all over the state.</p> <p>2 There's an infinite variety -- there are an</p> <p>3 variety of ways even of doing these two districts.</p> <p>4 I do -- what's not shown on here is where JoCasta</p> <p>5 lives. That usually is a significant factor when</p> <p>6 you're making these kinds of changes. Is she in</p> <p>7 the new 8th?</p> <p>8 Q Yes, she is. She was not displaced.</p> <p>9 A Well, then it makes some sense, because --</p> <p>10 Q No, no, she's -- she lives -- but she's also</p> <p>11 living in the old 8th.</p> <p>12 A That's what I mean. But she's in this 8th, right?</p> <p>13 Q Yes.</p> <p>14 A Okay. Well, then, as I said, there's an</p> <p>15 innumerable policy factors and legislative factors</p> <p>16 and I don't want to try to speculate on how you</p> <p>17 have to do it, but because of the infinite variety</p> <p>18 of things, one of the things that -- that's why</p> <p>19 I had this recollection, is in order to create</p> <p>20 a -- to make sure that this community would have</p> <p>21 the reasonable opportunity to elect in the second</p> <p>22 district, we want to -- I'm sure that one of the</p> <p>23 factors was which one's open, which one isn't,</p> <p>24 where the representative lives, where they don't,</p> <p>25 and that kind of factor factors into this. And</p>	<p style="text-align: right;">Page 156</p> <p>1 evaluate what the consequence of that notch on</p> <p>2 16th Street or otherwise known as Cesar Chavez</p> <p>3 Drive was?</p> <p>4 A I don't know.</p> <p>5 Q Would it surprise you to know that in putting that</p> <p>6 notch there, you took out of the 8th assembly</p> <p>7 district the single largest grocery store and the</p> <p>8 single most important medical social service</p> <p>9 agency in the Latino community out of the 8th</p> <p>10 assembly district?</p> <p>11 A It would not surprise me one way or the other, and</p> <p>12 I have to add that if you -- you could say the</p> <p>13 same thing about every assembly district in the</p> <p>14 state of Wisconsin, because every assembly</p> <p>15 district in the state of Wisconsin is going to --</p> <p>16 everybody locally is going to see it one way or</p> <p>17 another because there are an infinite number of</p> <p>18 life choices that are made along the way.</p> <p>19 That happens to be one of the choices</p> <p>20 that was made along the way. You could choose to</p> <p>21 do it differently. Ultimately from a legal</p> <p>22 perspective it would make no difference</p> <p>23 whatsoever, and so I wouldn't have known it and it</p> <p>24 simply wouldn't have been of any importance as a</p> <p>25 legal perspective, from a legal perspective.</p>
<p style="text-align: right;">Page 155</p> <p>1 that's why I said I was trying to think, as you</p> <p>2 asked that question, I -- I don't remember why it</p> <p>3 went north and south versus east and west. I just</p> <p>4 don't remember. But there's just so many</p> <p>5 different factors that go into that.</p> <p>6 Q And drawing your attention to the line between the</p> <p>7 8th and 9th, I'll represent to you in the northern</p> <p>8 part of the district there that's 16th Street or</p> <p>9 what we've otherwise called Cesar Chavez Drive as</p> <p>10 it's been renamed by the city.</p> <p>11 A Okay.</p> <p>12 Q There's a notch there. You see that notch?</p> <p>13 A I don't know which notch you've referring to.</p> <p>14 Q Well, there's a notch as you go down the middle,</p> <p>15 there's a straight line and then there's a dog leg</p> <p>16 to the right, a dog leg down and then a dog leg</p> <p>17 back and it goes down again; right?</p> <p>18 A Yes.</p> <p>19 Q There's a little notch down on 16th Street. Why</p> <p>20 was that notch put in there?</p> <p>21 A I -- I don't know.</p> <p>22 Q Do you have any idea of the consequences of that</p> <p>23 notch?</p> <p>24 A No.</p> <p>25 Q Did anybody on the team make any effort to</p>	<p style="text-align: right;">Page 157</p> <p>1 Q Well, to the extent you did not consult with</p> <p>2 anybody who actually lived in the 8th assembly</p> <p>3 district; isn't that true?</p> <p>4 A I didn't personally. I think I -- whatever my</p> <p>5 testimony was, I did not personally talk to</p> <p>6 somebody about it, no.</p> <p>7 Q But nobody on the legal team talked to anybody who</p> <p>8 actually lived in the 8th assembly district; isn't</p> <p>9 that true?</p> <p>10 A That I don't know and because the legal aspect of</p> <p>11 this is only one aspect of how redistricting is</p> <p>12 done, that wouldn't surprise me.</p> <p>13 MR. EARLE: Okay. All done. I'm</p> <p>14 done.</p> <p>15 THE WITNESS: Thank you.</p> <p>16 MR. DAUGHTERY: Thank you.</p> <p>17 THE WITNESS: But I've got to go</p> <p>18 through him too.</p> <p>19 MR. HODAN: Doug, about how long are</p> <p>20 you expecting to go?</p> <p>21 MR. POLAND: I'm hoping to be about a</p> <p>22 half an hour or so. I've got other things to run</p> <p>23 through, but that's what I'm hoping.</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 158</p> <p>1 EXAMINATION</p> <p>2 BY MR. POLAND:</p> <p>3 Q Mr. Troupis, I'm Doug Poland polled and I</p> <p>4 represent the Baldus plaintiffs in this case.</p> <p>5 A Who are the Baldus plaintiffs?</p> <p>6 Q It's a group of 23 citizens who are suing.</p> <p>7 A I'm just curious.</p> <p>8 Q When were you retained by the legislature to work</p> <p>9 on what eventually -- the redistricting process</p> <p>10 that eventually resulted in Acts 43 and 44?</p> <p>11 A I think the letter of retention -- we talked about</p> <p>12 this a little bit ago -- was probably around, was</p> <p>13 it around February of 2011 or January of 2011?</p> <p>14 Sometime shortly after the new legislature.</p> <p>15 MR. POLAND: Can I mark this as an</p> <p>16 exhibit.</p> <p>17 (Exhibit No. 225 was marked for</p> <p>18 identification.)</p> <p>19 BY MR. POLAND:</p> <p>20 Q Mr. Troupis, I'd like you to take a look at</p> <p>21 Exhibit 225 that the court reporter has just</p> <p>22 handed to you and ask you if you can identify this</p> <p>23 document.</p> <p>24 A I mean, I recognize my name's on it and I</p> <p>25 recognize it was written to a number of people on</p>	<p style="text-align: right;">Page 160</p> <p>1 process, and among those were Joe and Tad, who had</p> <p>2 stepped forward and I knew were interested and</p> <p>3 involved. So I would have contacted them because</p> <p>4 I assumed they were going to be ultimately on the</p> <p>5 team.</p> <p>6 Q Were you under contract or did you have an</p> <p>7 agreement at that time, a retention agreement with</p> <p>8 the Republican caucus?</p> <p>9 A I don't think so. I don't think so but I don't</p> <p>10 remember. I was with Michael Best -- no. Was I</p> <p>11 with Michael Best at this point? No, I wasn't, so</p> <p>12 I had left. I just don't remember. I don't</p> <p>13 believe I was personally.</p> <p>14 Q You don't believe you'd been retained personally</p> <p>15 at that time?</p> <p>16 A I don't believe -- if by retained we mean paid,</p> <p>17 the answer would be I don't believe so, but I have</p> <p>18 to -- the reason I'm hesitating is I have to check</p> <p>19 my records and I just don't remember being</p> <p>20 retained before the January or February time</p> <p>21 frame.</p> <p>22 Q It may have been more of an advisory role; is that</p> <p>23 fair to say?</p> <p>24 A Yes. You might call it client development role at</p> <p>25 this point.</p>
<p style="text-align: right;">Page 159</p> <p>1 December the 14th.</p> <p>2 Q And --</p> <p>3 A And I recognize some of the content, but I don't</p> <p>4 recall the exact context.</p> <p>5 Q And I wanted to ask about the date because it's</p> <p>6 dated December 14th, 2010. Do you see that?</p> <p>7 A Yes, I do.</p> <p>8 Q And you are addressing in Exhibit 225</p> <p>9 redistricting issues with Mr. Handrick, Mr. Ottman</p> <p>10 and Mr. McLeod; is that correct?</p> <p>11 A That's correct.</p> <p>12 Q All right. Do you recall whether you were</p> <p>13 retained by the legislature or by anyone on or</p> <p>14 before December 4th, 2010 to work on redistricting</p> <p>15 matters?</p> <p>16 A I think I just said that I thought I was retained</p> <p>17 in the early part of the new session, which was in</p> <p>18 January and February of 2011.</p> <p>19 Q Why would you have been speaking with Mr. Handrick</p> <p>20 and Mr. Ottman and Mr. McLeod about redistricting</p> <p>21 matters if you hadn't yet been retained?</p> <p>22 A I believe I said in my earlier testimony that one</p> <p>23 of the things that we had been doing in the year</p> <p>24 2011 was to identify those people that we thought</p> <p>25 would be most important to the redistricting</p>	<p style="text-align: right;">Page 161</p> <p>1 Q You can set that document aside. Do you still</p> <p>2 have Exhibit No. 188 in front of you?</p> <p>3 A Yes.</p> <p>4 Q And we established before that this was the</p> <p>5 engagement letter by which you, and I'll just say</p> <p>6 it once and hopefully not to have repeat it again,</p> <p>7 but the senate by its majority leader</p> <p>8 Scott Fitzgerald apparently retained Michael Best</p> <p>9 & Friedrich?</p> <p>10 A Yes, that appears to be the case.</p> <p>11 Q I'd like to draw your attention to the bottom of</p> <p>12 first page of Exhibit 188.</p> <p>13 A Okay.</p> <p>14 Q And there is -- there is a statement at the very,</p> <p>15 the very last line on that first page that says we</p> <p>16 will represent the senate with respect to both</p> <p>17 litigation and nonlitigation matters relating to</p> <p>18 the reapportionment representation. Do you see</p> <p>19 that?</p> <p>20 A Yes.</p> <p>21 Q You had testified earlier in response to a</p> <p>22 question from Mr. Earle that it was anticipated</p> <p>23 initially from the outset of this process that the</p> <p>24 matter very well could go to litigation; is that</p> <p>25 fair to say?</p>

<p style="text-align: right;">Page 162</p> <p>1 A Yes.</p> <p>2 Q That's one of the reasons that it was intended</p> <p>3 that these documents be covered by an</p> <p>4 attorney-client privilege?</p> <p>5 A It was one of the reasons they are covered by the</p> <p>6 attorney-client privilege.</p> <p>7 Q Did you understand that your representation of</p> <p>8 the -- of the senate and of the assembly by their</p> <p>9 majority, their respective majority leaders was</p> <p>10 also to be part of the -- or covered by the</p> <p>11 attorney-client privilege?</p> <p>12 A It was always my expectation that the work we did</p> <p>13 would in substantial part be covered by an</p> <p>14 attorney-client privilege, yes.</p> <p>15 Q And that was in part because you anticipated that</p> <p>16 it could very well go to litigation?</p> <p>17 A From my perspective that -- that's true, yes, from</p> <p>18 my personal perspective because I'm a trial</p> <p>19 lawyer.</p> <p>20 Q You can set that document aside. I'm going to</p> <p>21 hand you a document that previously has been</p> <p>22 marked as Exhibit No. 91. It was a deposition</p> <p>23 exhibit and a trial exhibit as well, and so</p> <p>24 I don't think this is one that is going to be on</p> <p>25 the list. I'll give you a moment to take a look</p>	<p style="text-align: right;">Page 164</p> <p>1 Q Did you have a conversation with Mr. Handrick on</p> <p>2 or around January 4th, 2011 about his inclusion in</p> <p>3 the redistricting team?</p> <p>4 A Based upon this e-mail it appears we did. I don't</p> <p>5 have any independent recollection of that at this</p> <p>6 point.</p> <p>7 Q Okay. And if we jump up to the e-mail just above</p> <p>8 that, which is Friday, January 4th, 2011, the</p> <p>9 third sentence in, you state I too spoke to the</p> <p>10 leaders about your involvement. Do you see that?</p> <p>11 A Yes.</p> <p>12 Q Do you recall speaking with -- strike that</p> <p>13 question. By the leaders, who are you referring</p> <p>14 to there?</p> <p>15 A I don't know but I assume it was the speaker and</p> <p>16 majority leader.</p> <p>17 Q Do you recall speaking with the speaker and the</p> <p>18 majority leader about Mr. Handrick's involvement</p> <p>19 in the redistricting process?</p> <p>20 A I have no independent recollection right now.</p> <p>21 I mean, I can read this and come to some</p> <p>22 conclusions, but I don't remember that.</p> <p>23 Q Any reason to believe that you didn't at that time</p> <p>24 speak with them as indicated in your e-mail?</p> <p>25 A Well, it says it in the e-mails. That's what it</p>
<p style="text-align: right;">Page 163</p> <p>1 at it.</p> <p>2 A Okay.</p> <p>3 Q Mr. Troupis, I think that this is a reverse</p> <p>4 chronology.</p> <p>5 A Right, I went from the bottom.</p> <p>6 Q Okay, terrific. I'm glad you did that. That's</p> <p>7 what I wanted to ask you about. The bottom e-mail</p> <p>8 appears to be an e-mail from Mr. Handrick to you</p> <p>9 on January 14th, 2011; correct?</p> <p>10 A That's what it appears to be.</p> <p>11 Q All right. And Mr. Handrick refers to a meeting</p> <p>12 that he had with Senator Fitzgerald, the previous</p> <p>13 week; correct?</p> <p>14 A That's what it says.</p> <p>15 Q And Mr. Handrick's e-mail also says that --</p> <p>16 reports that Senator Fitzgerald had asked him to</p> <p>17 get together with you, Mr. Troupis, and/or</p> <p>18 Mr. McLeod to figure out how to structure his</p> <p>19 involvement with the team; correct? Do you see</p> <p>20 that?</p> <p>21 A Again, that's what it appears to say, yes.</p> <p>22 Q All right. Do you know by the team, is he</p> <p>23 referring to the redistricting team that was being</p> <p>24 put together?</p> <p>25 A That's what I understood.</p>	<p style="text-align: right;">Page 165</p> <p>1 says.</p> <p>2 Q Were you responsible for approaching Mr. Handrick</p> <p>3 and asking him to be part of the redistricting</p> <p>4 team?</p> <p>5 A I don't know that I'd use the term "responsible."</p> <p>6 I think I expressed earlier that Joe Handrick and</p> <p>7 I have known each other a very long time. So it</p> <p>8 wouldn't surprise me that he came and visited with</p> <p>9 me. He was -- at that time and we talked about</p> <p>10 it.</p> <p>11 Q Were you -- were you one -- one of the people or</p> <p>12 the person who recommended Mr. Handrick be</p> <p>13 retained to work in the redistricting process?</p> <p>14 A I would not be so arrogant to suggest that.</p> <p>15 Joe Handrick is well known in the Capitol and he's</p> <p>16 well known in for his involvement in redistricting</p> <p>17 going back 20 years. So I doubt I was the sole</p> <p>18 source of much of anything there.</p> <p>19 Q You can set that document aside. Were there any</p> <p>20 other members of the redistricting team that you</p> <p>21 spoke with in early 2011 about participating in</p> <p>22 the process?</p> <p>23 A I assume I did.</p> <p>24 MR. POLAND: Actually this is already</p> <p>25 marked so we don't have to worry about that.</p>

<p style="text-align: right;">Page 166</p> <p>1 Again, I think Don, I think that the documents</p> <p>2 that have previously been marked, I don't think we</p> <p>3 have to worry about.</p> <p>4 MR. DAUGHTERY: Okay, great. Thank</p> <p>5 you.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. POLAND:</p> <p>8 Q And again we have a reverse chron order here, so</p> <p>9 I'd like to start at the bottom of this e-mail</p> <p>10 chain. The first e-mail appears to be an e-mail</p> <p>11 from Mr. Handrick to you dated January 24th, 2011.</p> <p>12 Do you see that?</p> <p>13 A Yes, I do.</p> <p>14 Q And I'd like to jump to the second line down. Do</p> <p>15 you see where Mr. Handrick asks you the question</p> <p>16 did you finish your consult retention memo yet.</p> <p>17 A I thought you were going to ask about Moscow.</p> <p>18 Q No.</p> <p>19 A There's another story behind that part.</p> <p>20 Q If we had more time I'd love to hear that one.</p> <p>21 Maybe over a beer sometime.</p> <p>22 A There we go. Did you finish your consult and</p> <p>23 retention memo yet. Is that the question?</p> <p>24 Q Yes.</p> <p>25 A Okay. What's the question?</p>	<p style="text-align: right;">Page 168</p> <p>1 might have been but it wouldn't have been uncommon</p> <p>2 if I said working on it that it might have been</p> <p>3 Eric McLeod or Ray Taffora at this point.</p> <p>4 Q Now, the next sentence in that middle e-mail you</p> <p>5 say Keith Gaddie is on board now as well. Do you</p> <p>6 see that statement?</p> <p>7 A Yes, I do.</p> <p>8 Q What are you referring to there?</p> <p>9 A I must have given him a call, I guess. I don't</p> <p>10 have any independent recollection of when I first</p> <p>11 talked to Keith, Professor Gaddie. But I must</p> <p>12 have -- based on this I must have talked to him</p> <p>13 somehow to know that he would be willing to</p> <p>14 participate.</p> <p>15 Q You knew Dr. Gaddie before this time then?</p> <p>16 A Oh, yes.</p> <p>17 Q Fair to say?</p> <p>18 A Yes.</p> <p>19 Q Had you worked with him on redistricting</p> <p>20 litigation previously?</p> <p>21 A Yes, I had.</p> <p>22 Q Was that back in 2002?</p> <p>23 A That's correct.</p> <p>24 Q Anytime before that?</p> <p>25 A I don't remember anytime before that. Could have</p>
<p style="text-align: right;">Page 167</p> <p>1 Q The question is what is that referring to?</p> <p>2 A I think at about this time it was reflected in the</p> <p>3 prior e-mail there was a discussion going on on</p> <p>4 what type of retention Mr. Handrick would be</p> <p>5 involved with, and I think I reflected earlier on</p> <p>6 the question had been raised whether he'd be on an</p> <p>7 hourly basis or whether he'd be on a monthly</p> <p>8 retention. So I assume that's what this is</p> <p>9 referring to. At the time we were probably</p> <p>10 talking about and someone was supposed to prepare</p> <p>11 something that would then be exchanged on that</p> <p>12 question.</p> <p>13 Q And then if you jump up to the e-mail directly</p> <p>14 above, you'll see that you respond to Mr. Handrick</p> <p>15 that same day a short time later and you say</p> <p>16 working on it. Do you see that?</p> <p>17 A Yes, do.</p> <p>18 Q Does that indicate that you were working on</p> <p>19 Mr. Handrick's consult and retention memo?</p> <p>20 A It could mean that. It could mean when I said</p> <p>21 working on it, it could be that the team -- that</p> <p>22 Eric McLeod was working on it. At this point in</p> <p>23 time I was preparing for a major trial, I think I</p> <p>24 told you before, for the Sandisk Corporation. So</p> <p>25 it was being wedged in among a lot of tasks. So I</p>	<p style="text-align: right;">Page 169</p> <p>1 been. Professor Gaddie's well known, you know,</p> <p>2 and so I could have had some involvement with him</p> <p>3 before that time.</p> <p>4 Q Do you know whether you were the first one to</p> <p>5 reach out to Professor Gaddie for the purpose of</p> <p>6 working on the 2011 redistricting?</p> <p>7 A I don't know if I was the first one or not.</p> <p>8 Joe Handrick and Professor Gaddie -- Joe had been</p> <p>9 featured in a book that Professor Gaddie did, and</p> <p>10 so I know that he had a different kind of</p> <p>11 friendship with him than I did. So he might have</p> <p>12 talked to him.</p> <p>13 Q The very next sentence continues on to say still</p> <p>14 trying to get to Dr. Grofman. Do you see that?</p> <p>15 A Yes, I do.</p> <p>16 Q And what are you referring to there?</p> <p>17 A I'm talking about Dr. Bernie Grofman.</p> <p>18 Q Were you attempting at this time also to get</p> <p>19 Dr. Grofman to participate in the redistricting</p> <p>20 process?</p> <p>21 A This is an embarrassment. I think at this point</p> <p>22 in time I was underwater and I didn't get ahold of</p> <p>23 Dr. Grofman until much later. So when I said</p> <p>24 I was still trying, that's the appropriate word is</p> <p>25 trying. I don't believe that I had direct contact</p>

<p style="text-align: right;">Page 170</p> <p>1 with him for many months later.</p> <p>2 Q We have a few documents here that we'll walk</p> <p>3 through the sequence and I think that might show.</p> <p>4 A That's -- again, if that's not correct, but that's</p> <p>5 what my recollection is now.</p> <p>6 MR. POLAND: You can set that document</p> <p>7 to the side. Don, here's one. I don't know that</p> <p>8 this is on our list. You can take a look and see.</p> <p>9 And I'm just going to ask about that first one,</p> <p>10 number 21 there.</p> <p>11 MR. DAUGHTERY: Twenty-one, that's</p> <p>12 fine. 21 is fine.</p> <p>13 MR. POLAND: Actually can I take that</p> <p>14 one back?</p> <p>15 (Exhibit No. 226 was marked for</p> <p>16 identification.)</p> <p>17 BY MR. POLAND:</p> <p>18 Q Mr. Troupis, the court reporter has handed you</p> <p>19 Exhibit 226. You certainly are free to read all</p> <p>20 these if you'd like. I'm only going to ask you</p> <p>21 about the very first one on the first page.</p> <p>22 A Let me at least familiarize myself with what this</p> <p>23 is.</p> <p>24 Q Of course.</p> <p>25 A Okay. I think the only two that I -- I guess I</p>	<p style="text-align: right;">Page 172</p> <p>1 drafted a retention letter?</p> <p>2 A Right.</p> <p>3 Q All right. So by that time, by January 31st,</p> <p>4 2011, it was your understanding Professor Gaddie</p> <p>5 had agreed that he would work as a consultant --</p> <p>6 A No.</p> <p>7 Q -- on the redistricting process?</p> <p>8 A No. At this point in time I was drafting a</p> <p>9 retention letter. So he was undoubtedly, I would</p> <p>10 assume, waiting for something to look at and I was</p> <p>11 circulating it to Eric, because I think, and</p> <p>12 I could be mistaken on this, but I would assume</p> <p>13 that the eventual retention letter came from</p> <p>14 Michael Best and not from me, but I would have</p> <p>15 drafted language about that.</p> <p>16 Q And just below that it appears you're still trying</p> <p>17 to make contact with Mr. Grofman at that point or</p> <p>18 Dr. Grofman at that point?</p> <p>19 A Yes. As I told you, the embarrassment here, yes.</p> <p>20 Q Certainly don't mean to embarrass you.</p> <p>21 A No. I still feel badly because I do like</p> <p>22 Professor Grofman a great deal.</p> <p>23 Q The next sentence down, you are talking about</p> <p>24 bills and there is a statement there that you were</p> <p>25 making, monthly statement amount due from the</p>
<p style="text-align: right;">Page 171</p> <p>1 wanted to look through. I didn't recognize the</p> <p>2 rest of them. I don't know that I was ever copied</p> <p>3 on any of those others. The only two that I</p> <p>4 appear to be on is 21 and 22.</p> <p>5 Q That's right, and 21 is the only one that I intend</p> <p>6 to ask you about.</p> <p>7 A Okay.</p> <p>8 Q So 21 is an e-mail from you dated January 31st,</p> <p>9 2011; correct?</p> <p>10 A Seems to be that.</p> <p>11 Q And you were sending this to Mr. Ottman and</p> <p>12 Mr. Foltz; correct?</p> <p>13 A Yes, and copied to a number of others.</p> <p>14 Q All right. Is it your understanding that you</p> <p>15 would have been engaged certainly at least to</p> <p>16 represent the senate and the assembly by their</p> <p>17 respective majority leaders by this time?</p> <p>18 A I would have interpreted it that way but we need</p> <p>19 to be a little careful here because we lawyers</p> <p>20 tend to get out in front of formal retentions and</p> <p>21 I don't know that I was being paid for this or</p> <p>22 retained in that sense. I certainly understood</p> <p>23 I was going to be retained by this point and was</p> <p>24 working on the projects that you see there.</p> <p>25 Q And there was a reference to Professor Gaddie</p>	<p style="text-align: right;">Page 173</p> <p>1 trust, one line total from MB&F. Once initialed,</p> <p>2 MB&F will issue appropriate payment. That refers</p> <p>3 to the arrangement that you had testified about</p> <p>4 earlier in response to a question from Mr. Earle;</p> <p>5 is that correct?</p> <p>6 A I'm not sure what you're referring to. I think,</p> <p>7 I think it's referring to the Handrick arrangement</p> <p>8 by this point in time, but I'm not certain of</p> <p>9 that, so I -- I'm guessing that's true.</p> <p>10 Q Is it fair --</p> <p>11 A Contextually it appears to be correct.</p> <p>12 Q Is it fair to say that the way that the payments</p> <p>13 worked is that there was a trust that was set up</p> <p>14 and then Michael Best & Friedrich would pay the</p> <p>15 outside consultants and lawyers who were retained?</p> <p>16 A Yes, that's correct.</p> <p>17 Q And then the very next line down, there's a</p> <p>18 statement, meeting with legislators, you're each</p> <p>19 about to start those. Do you see that?</p> <p>20 A Yes.</p> <p>21 Q To what does that refer?</p> <p>22 A Well, the process -- the process of redistricting</p> <p>23 has as an important element, actual ongoing</p> <p>24 meetings with members of the legislature to</p> <p>25 determine what was important to them. At this</p>

<p style="text-align: right;">Page 174</p> <p>1 stage you wouldn't be talking about districts. 2 You would be talking about, well, what's important 3 to you, what's really important to you. Some of 4 them say, you know, Grandma Moses' farm on the 5 east end of Polk County, and some of them say 6 I don't care and some of them might say I'm 7 retiring. 8 And so the process begins with the Tad 9 and Adam consulting with the various members of 10 the legislature to determine what they consider to 11 be important before you start thinking about how 12 you would draw maps and it's the beginning of the 13 process. 14 Q At that time was it the intention to have 15 Mr. Ottman and Mr. Foltz consult with members of 16 both the majority part and the minority party or 17 simply the majority party at that point? 18 A I don't know. 19 Q Did you ever instruct them to meet only with the 20 majority members? 21 A I did not. 22 Q Did you ever instruct them not to meet with any of 23 the members of the minority party? 24 A I did not. 25 Q You can set that document aside.</p>	<p style="text-align: right;">Page 176</p> <p>1 A Yes. 2 Q Do you see in the first paragraph it appears that 3 they're not attached to this e-mail, this 4 document, but it appears that you were sending 5 three draft letters of retention; correct? 6 A Yes. As I said before, we were working on -- 7 there was wording that that was being put together 8 and I apparently had put something of that wording 9 together. 10 Q It appears to reflect -- 11 A The wording that I previously said when I said we 12 were working on the retention letters, now 13 apparently I had done some drafts or something and 14 sent them along. 15 Q Now, the third paragraph down in your e-mail 16 states: I have kept these purposely vague on the 17 assumption they may one day be made public. There 18 is, for example, no description of how Joe would 19 report his time and no allegation he provide 20 detail. Do you see that? 21 A Mm-hm. 22 Q And was -- 23 A Yes, I do. 24 Q Does that refer also to Mr. Earle's question to 25 you earlier, I think you had a question and answer</p>
<p style="text-align: right;">Page 175</p> <p>1 MR. DAUGHTERY: That's fine. Let's go 2 ahead and mark that. 3 (Exhibit No. 227 was marked for 4 identification.) 5 BY MR. POLAND: 6 Q Mr. Troupis, the court reporter has handed you 7 Exhibit 227. I'll give you a minute here to look 8 at it. 9 MR. HODAN: Doug, it's 8:15 at night 10 and we're talking about retention letters still? 11 MR. POLAND: Yes, we are. I've only 12 been asking questions for about 20 minutes. 13 MR. HODAN: I understand. I'm just 14 wondering how this is relevant to what we're going 15 to be talking about at trial tomorrow or Friday. 16 MR. POLAND: Okay. You'll find out. 17 THE WITNESS: Okay. 18 BY MR. POLAND: 19 Q Okay. Can you identify Exhibit 227, please? 20 A Well, it appears to be an e-mail from me to a 21 number of people and then an e-mail from 22 Tad Ottman to me and a number of people dated 23 February 9 and February 11 respectively, 2011. 24 Q I'd like to start with the e-mail from you to 25 Mr. McLeod that February 9th e-mail.</p>	<p style="text-align: right;">Page 177</p> <p>1 about that? 2 A I -- we talked about Mr. Handrick's retention. 3 I do remember that. 4 Q All right. And it was -- was it for the purpose 5 of litigation that you kept the retention letters 6 purposely vague? 7 A No. As I reflected down below, there was no need 8 for that. In the second-to-last paragraph I 9 actually point out that given the relationship, 10 there just was -- it was simply not necessary. So 11 I -- so among the reasons, I just didn't think it 12 was necessary and, in fact, I wanted to see Joe 13 work as hard as he would. 14 Q Why would it not be necessary for both Joe and 15 Keith Gaddie not to have to have a comprehensive 16 time description? 17 A Because normally the reason you would have that is 18 because you're concerned that perhaps people will 19 overcharge or undercharge -- not undercharge -- 20 generally overcharge and you want to make sure 21 that they're doing the tasks that you're asking. 22 In this instance, I knew both Professor Gaddie and 23 Joe Handrick and that certainly was not any kind 24 of a concern that I would have had at that moment 25 in time.</p>

<p style="text-align: right;">Page 178</p> <p>1 Q Did you also have a concern, though, that you did 2 not want their task descriptions to be made 3 public?</p> <p>4 A Well, you know, as with any expert, any trial 5 lawyer who's worth their salt is not going to have 6 the experts describe everything going on because 7 it reveals certain work product and litigation 8 strategies and the like. So this is a very common 9 understanding. There's nothing uncommon about 10 that, if that's where you're thinking I was going. 11 But as I told you, my view was it just was not 12 necessary.</p> <p>13 THE VIDEOGRAPHER: Excuse me. Two 14 minutes of disk.</p> <p>15 MR. POLAND: Why don't we just go 16 ahead and change the tape now. Let's go off the 17 record.</p> <p>18 THE VIDEOGRAPHER: This ends disk 19 number two of the video deposition of James R. 20 Troupis on February 22, 2012. The time, 8:15 p.m. 21 (Discussion off the record.) 22 (Exhibit No. 228 was marked for 23 identification.) 24 THE VIDEOGRAPHER: This is the 25 beginning of disk number three of the video</p>	<p style="text-align: right;">Page 180</p> <p>1 Q And when you say -- I'm sorry, did you say 2 membership groups?</p> <p>3 A Yes.</p> <p>4 Q What do you mean by membership groups?</p> <p>5 A Well, groups that have members from around the 6 state that often -- that are in Madison, that have 7 offices in Madison.</p> <p>8 Q Okay. Can you give me examples of the membership 9 groups?</p> <p>10 A Oh, sure. The ones I remember, and I don't 11 remember -- candidly I don't remember who was 12 there, but I do remember that the WMC, Jim Buchen, 13 I believe Jim was there. Maybe not, but I thought 14 there was representatives from WMC. I know that 15 there would have been a representative from the 16 realtors. Liki Theo, L-I-K-I, a fellow Greek, and 17 I think the bankers, but that's the type of group. 18 But I may be incorrect on those three because 19 I don't remember for sure who was there, but I do 20 remember that's the type of group that was being 21 invited.</p> <p>22 Q There is a statement by Mr. Handrick after that 23 that says: Tad and I thought maybe it's better 24 not to have me there but I certainly can be if you 25 wish.</p>
<p style="text-align: right;">Page 179</p> <p>1 deposition of James R. Troupis on February 22, 2 2012. The time, 8:20 p.m.</p> <p>3 BY MR. POLAND:</p> <p>4 Q Mr. Troupis, the court reporter has handed you a 5 document that we've marked as Exhibit No. 228. 6 Can you identify it for the Court, please?</p> <p>7 A Well, it appears to be a series of e-mails from or 8 to me and Joe Handrick.</p> <p>9 Q I'd like to draw your attention to the very last 10 e-mail that appears on the last page --</p> <p>11 A Yes.</p> <p>12 Q -- of page 1 and then page 2. It appears to be --</p> <p>13 A The one dated January 28, 2011, 4:27 p.m.?</p> <p>14 Q Yes, correct. I believe all the text is contained 15 on the second page. Mr. Handrick says to you are 16 you expecting me on Monday for the meeting with 17 the private groups. Do you see that?</p> <p>18 A Yes, I do.</p> <p>19 Q What is Mr. Handrick referred to by private 20 groups?</p> <p>21 A If I remember the dates correctly, at about this 22 time there was a -- there was going to be a 23 meeting involving a number of the large membership 24 groups that are in Madison to explain the process 25 that we were about to begin for redistricting.</p>	<p style="text-align: right;">Page 181</p> <p>1 A Yes.</p> <p>2 Q Do you know why it was thought perhaps that it 3 would be better not to have Mr. Handrick there?</p> <p>4 A Honestly I don't know but -- I mean, I could 5 speculate but I don't know.</p> <p>6 Q Well, if you want to speculate, I'll be happy to 7 hear what you have to say.</p> <p>8 A Better not speculate.</p> <p>9 MR. DAUGHTERY: I instruct the witness 10 not to speculate.</p> <p>11 THE WITNESS: Don't speculate, Jim. 12 It's late. You know better.</p> <p>13 BY MR. POLAND:</p> <p>14 Q Let's go up to the e-mail just above that. 15 There's an e-mail from you to Mr. Handrick on 16 Saturday, January 29th.</p> <p>17 A Yes.</p> <p>18 Q And you say: I will defer to Tad on this. It 19 appears to be referring to the previous question.</p> <p>20 A That's why I said that, that I can surmise certain 21 things from this one actually.</p> <p>22 Q You then say in your message: I think for you 23 that maintaining the appearance of independence is 24 potentially very important and lucrative for you. 25 What did you mean, maintaining the appearance of</p>

<p style="text-align: right;">Page 182</p> <p>1 independence?</p> <p>2 A What did I mean? I hope that you asked Joe about</p> <p>3 this, and I don't mean to misstate what Joe's</p> <p>4 intentions were at the time. Joe had just joined</p> <p>5 the Reinhart firm just prior to this. He had got</p> <p>6 married or was about to get married and he was</p> <p>7 moving back to Milwaukee or Madison.</p> <p>8 Q Port Washington, I think, perhaps?</p> <p>9 A It is Port Washington where he's living? I knew</p> <p>10 it was Milwaukee area. And in the lobbying</p> <p>11 practice, which is what he would be doing, it's</p> <p>12 having -- maintaining that level of independence</p> <p>13 from the speaker or majority leader or us, me,</p> <p>14 whomever, or Michael Best, was -- would be</p> <p>15 important, if you're going to build an effective</p> <p>16 lobbying practice, you kind of have to make</p> <p>17 choices and at this point I doubt Joe had made his</p> <p>18 choices, what he was going to emphasize, what he</p> <p>19 might want to sell, so to speak, in the rest of</p> <p>20 his practice.</p> <p>21 And so that I would surmise from this</p> <p>22 that, you know, he didn't -- for his sake it might</p> <p>23 be better to not be associated so early and so</p> <p>24 directly with the speaker and majority leader.</p> <p>25 Q Was that essentially counsel or guidance you were</p>	<p style="text-align: right;">Page 184</p> <p>1 MR. EARLE: Just for the record, that</p> <p>2 last comment was with levity as well.</p> <p>3 THE WITNESS: Okay, please.</p> <p>4 MR. EARLE: Sometimes when comments</p> <p>5 that are intended to be and, in fact, are with</p> <p>6 levity don't appear necessarily that way.</p> <p>7 THE WITNESS: Thank you. I</p> <p>8 appreciate that.</p> <p>9 MR. POLAND: We do have the videotape</p> <p>10 as well.</p> <p>11 THE WITNESS: Let me take a second. I</p> <p>12 want to refresh my recollection what this was.</p> <p>13 (Exhibit No. 229 was marked for</p> <p>14 identification.)</p> <p>15 BY MR. POLAND:</p> <p>16 Q Okay. So you've taken a look again at</p> <p>17 Exhibit 220, Mr. Troupis?</p> <p>18 A Yes.</p> <p>19 Q I'm going to hand you a document the court</p> <p>20 reporter has marked as Exhibit No. 229. I'd like</p> <p>21 to give you a minute to take a look at that</p> <p>22 document. Mr. Troupis, have you seen Exhibit 229</p> <p>23 before?</p> <p>24 A I don't recall seeing this before.</p> <p>25 Q I'd like you to take a look at the second page of</p>
<p style="text-align: right;">Page 183</p> <p>1 giving to him in that message?</p> <p>2 A Yes. Joe had talked to me about whether he should</p> <p>3 join the Reinhart firm and whether that would be</p> <p>4 the right move for him. I told you we were</p> <p>5 friends and we go back a long way. I told him it</p> <p>6 would be a brilliant move and apparently he took</p> <p>7 my advice.</p> <p>8 Q You can set that document to the side.</p> <p>9 Mr. Troupis, do you still have Exhibit 220 in</p> <p>10 front of you? That's was Reinhart engagement</p> <p>11 letter.</p> <p>12 A I don't know. The stack's getting kind of big</p> <p>13 here.</p> <p>14 Q We have a few more to add to it.</p> <p>15 A I'll tell you --</p> <p>16 MR. DAUGHTERY: Here, looks like this.</p> <p>17 BY MR. POLAND:</p> <p>18 Q It has an e-mail on the front cover.</p> <p>19 A I don't mean to be -- I'm not purposely trying to</p> <p>20 go slow here. I can't find it. Oh, there it is.</p> <p>21 It's the bottom one.</p> <p>22 Q You recognize, this is karma. This is payback for</p> <p>23 doing this to other witnesses.</p> <p>24 A Exactly. I appreciate that. I appreciate that.</p> <p>25 Let's see. It's always on the bottom.</p>	<p style="text-align: right;">Page 185</p> <p>1 Exhibit 229. Do you see that you are identified</p> <p>2 as a cc?</p> <p>3 A Yes, I do, now that you mention it, but I don't</p> <p>4 recall it.</p> <p>5 Q I'd like you to just refer your attention back to</p> <p>6 Exhibit 220, which is the Reinhart engagement</p> <p>7 letter, the February 17th letter?</p> <p>8 A Yes.</p> <p>9 Q Do you see in the very first line of that letter</p> <p>10 it states: Please find enclosed the engagement</p> <p>11 letter of February 15, 2011? Do you see that?</p> <p>12 A This is the mysterious letter, yes.</p> <p>13 Q Is it your understanding that that references to</p> <p>14 Exhibit 229?</p> <p>15 A I have no understanding one way or the other.</p> <p>16 I mean, it's reasonable to assume that given the</p> <p>17 dates. I told you I just don't recognize it.</p> <p>18 Q You beat me to the next question. That's what</p> <p>19 I was going to ask you. It's reasonable to assume</p> <p>20 that. If you look at the very first paragraph of</p> <p>21 Exhibit 229, you see that the -- at the very end</p> <p>22 of that first paragraph it states that the --</p> <p>23 well, strike that question. The very first</p> <p>24 paragraph confirms the engagement of Mr. Handrick</p> <p>25 correct?</p>

<p style="text-align: right;">Page 186</p> <p>1 A It appears to, yes.</p> <p>2 Q And it also states that the matter involves</p> <p>3 potential litigation; correct?</p> <p>4 A Yes, that's what it says.</p> <p>5 Q And if you jump down three paragraphs below that,</p> <p>6 the letter states: As this retention is in</p> <p>7 anticipation of potential litigation, all matters</p> <p>8 must remain confidential until such time as the</p> <p>9 client determines otherwise. Do you see that?</p> <p>10 A Yes, I do.</p> <p>11 Q Do you ever recall drafting language like that for</p> <p>12 an engagement letter for Mr. Handrick?</p> <p>13 A This is -- my recollection is this is pretty</p> <p>14 standard Michael Best & Friedrich expert retention</p> <p>15 letter and you would normally put in a clause to</p> <p>16 that effect in any retention letter of an expert</p> <p>17 or consultant in these kind of cases. So my --</p> <p>18 I don't know whether I drafted it or somebody else</p> <p>19 did, but I do know that my recollection is that</p> <p>20 this is -- this is standard language.</p> <p>21 Q The subject matter line of Exhibit 229 --</p> <p>22 A The re line.</p> <p>23 Q The re line, you see it states Wisconsin state</p> <p>24 senate by its majority leader Scott R. Fitzgerald</p> <p>25 and the Wisconsin state assembly by its speaker</p>	<p style="text-align: right;">Page 188</p> <p>1 BY MR. POLAND:</p> <p>2 Q Okay. Mr. Troupis, have you seen Exhibit No. 230</p> <p>3 before?</p> <p>4 A I must have in reading it.</p> <p>5 MR. HODAN: Is this 230 or 234?</p> <p>6 THE WITNESS: 230.</p> <p>7 BY MR. POLAND:</p> <p>8 Q Mr. Troupis, this is an e-mail that you sent to a</p> <p>9 number of people on Friday, April 1st; correct,</p> <p>10 2011?</p> <p>11 A That's what it appears, yes.</p> <p>12 Q And you'll see that you at least direct your</p> <p>13 comments, it appears, to Mr. Ottman and Mr. Foltz?</p> <p>14 A Yes.</p> <p>15 Q You state in the first sentence of your e-mail:</p> <p>16 Finally heard back from Gaddie yesterday and after</p> <p>17 talking things through with him, and then in</p> <p>18 parens, in briefly visiting last week with Joe H.,</p> <p>19 it seems the best time for him to come out would</p> <p>20 be April 29th through 30, May 3 through 6, or</p> <p>21 anytime after that in May. Do you see that?</p> <p>22 A Yes, I do.</p> <p>23 Q Does that refer to Mr. or Dr. Gaddie coming to</p> <p>24 Madison?</p> <p>25 A Yes, it does.</p>
<p style="text-align: right;">Page 187</p> <p>1 Jeff Fitzgerald, dash, 2011, dash, 12</p> <p>2 redistricting. Do you see that?</p> <p>3 A Yes, I do.</p> <p>4 Q Are you aware of any other description of the</p> <p>5 scope of the representation for which Mr. Handrick</p> <p>6 was retained?</p> <p>7 A Again, there's a couple of letters here regarding</p> <p>8 that, and I don't recall anything other than the</p> <p>9 letters we're talking about.</p> <p>10 Q Did you ever have a conversation with Mr. Handrick</p> <p>11 about the scope of his services?</p> <p>12 A I think I've already said it several times that</p> <p>13 Joe would be assisting in this process and I had</p> <p>14 no concerns at all that he would be giving us fair</p> <p>15 measure in that process. So I -- and he would</p> <p>16 take assignments from the lawyers or the majority</p> <p>17 leader, whatever it happened to be.</p> <p>18 Q You can set that document to the side. We just</p> <p>19 got shorter by a few minutes.</p> <p>20 A Thank you. Thank you, judge, whichever judge.</p> <p>21 MR. DAUGHTERY: Judge Dow. Thank you,</p> <p>22 Judge Dow.</p> <p>23 (Exhibit No. 230 was marked for</p> <p>24 identification.)</p> <p>25</p>	<p style="text-align: right;">Page 189</p> <p>1 Q When was the first time that Dr. Gaddie came to</p> <p>2 Madison to work on the redistricting in 2011?</p> <p>3 A I don't know.</p> <p>4 Q Did you ever meet with him when he came to Madison</p> <p>5 for the purpose of redistricting?</p> <p>6 A I think that was asked a little bit earlier.</p> <p>7 Here's the irony of this e-mail and you saw me</p> <p>8 chuckle a second ago. One of the reasons</p> <p>9 April 29th and May 3rd were chosen was because</p> <p>10 I was supposed to leave for Australia on April the</p> <p>11 4th or 5th and that's the plane I was on headed to</p> <p>12 the West Coast when I got a call from Mr. Justice</p> <p>13 Prosser to get off the plane and come back. So</p> <p>14 I was supposed to be back at the end of the month</p> <p>15 and I never took that trip and my family did, and</p> <p>16 that was the reason those dates were chosen.</p> <p>17 As it turned out, by the time he</p> <p>18 arrived, which was either late April or early May,</p> <p>19 I had absolutely no time to meet with him. And so</p> <p>20 I may have broken away at some point and met with</p> <p>21 him when he was here, but I don't remember the</p> <p>22 dates and the whole time period is a blur.</p> <p>23 However, he did come out and have drinks with me</p> <p>24 at the Village Green in Middleton, Wisconsin, one</p> <p>25 night, and that I do remember.</p>

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<p>1 Q Do you recall ever meeting with Professor Gaddie</p> <p>2 at the Michael Best & Friedrich offices during the</p> <p>3 redistricting process?</p> <p>4 A I have no independent recollection but that is</p> <p>5 absolutely not to say that I didn't, because at</p> <p>6 that time we were quite literally working 18 hours</p> <p>7 a day, seven days a week.</p> <p>8 Q On the redistricting?</p> <p>9 A Mr. Justice Prosser's recount.</p> <p>10 Q Okay. Do you recall working at all with</p> <p>11 Professor Gaddie where any maps were displayed or</p> <p>12 shown or created?</p> <p>13 A You know, he must have been in early June of 2011.</p> <p>14 I thought that he came twice and I thought that he</p> <p>15 was present at some of the meetings in early --</p> <p>16 I think it was early June of 2011. Again, there's</p> <p>17 probably e-mails that will give you the exact</p> <p>18 dates. And I thought that he was present at those</p> <p>19 meetings when we were looking at regional maps.</p> <p>20 So that's -- that's my recollection. But I don't</p> <p>21 think in this earlier time period I certainly</p> <p>22 don't have any recollection of -- I've told you</p> <p>23 before even of the meeting, which doesn't mean it</p> <p>24 didn't happen.</p> <p>25 Q Was Professor Gaddie asked to look at any specific</p>	<p>1 Q And the date is May 9th, 2011?</p> <p>2 A That's what it appears to be.</p> <p>3 Q Professor Gaddie asks that you refresh his memory</p> <p>4 on an issue. He asks: Is the disenfranchisement</p> <p>5 issue in the Wisconsin senate a concern under the</p> <p>6 Wisconsin state constitution or statute?</p> <p>7 A He actually misspelled. It could be</p> <p>8 disfranchisement. Just so you know, I'm not the</p> <p>9 only one and Peter with bad typing skills.</p> <p>10 Q I do the same thing. I think we're all in the</p> <p>11 same boat. And continuing on, he says: Or is</p> <p>12 this an equal protection issue arising under the</p> <p>13 14th amendment. If you can direct me to an</p> <p>14 appropriate citation, I would appreciate the</p> <p>15 assistance. Do you see that?</p> <p>16 A Yes.</p> <p>17 Q Do you recall Professor Gaddie asking this</p> <p>18 question of you?</p> <p>19 A No, I don't.</p> <p>20 Q Do you ever recall responding to him?</p> <p>21 A No. I might have. I just don't recall that.</p> <p>22 Q Do you recall ever asking Professor Gaddie</p> <p>23 specifically to look at the senate</p> <p>24 disenfranchisement issue?</p> <p>25 A I don't. Again, I might have but I don't recall</p>
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<p>1 regions or any specific areas of the state?</p> <p>2 A Not that I recall, no, but he might have been. I</p> <p>3 just don't recall that.</p> <p>4 Q And there were others on the redistricting team</p> <p>5 who were working with him directly?</p> <p>6 A Correct, correct.</p> <p>7 Q Do you recall seeking out Professor Gaddie's</p> <p>8 expertise or opinions in any specific area of the</p> <p>9 redistricting, be it a geographic other or a</p> <p>10 topical area?</p> <p>11 A Nothing, you know, separate or distinct from the</p> <p>12 general tasks that we had. I just don't remember</p> <p>13 any. Probably did but I don't remember anything</p> <p>14 specifically.</p> <p>15 Q You can set that to the side. This is a document</p> <p>16 that we've previously marked as Exhibit No. 69 at</p> <p>17 deposition and trial.</p> <p>18 A Oh, I see. Professor Gaddie. Okay.</p> <p>19 Q Mr. Troupis, have you seen Exhibit No. 69 before?</p> <p>20 A I don't recall it but apparently I did because</p> <p>21 it's directed to me.</p> <p>22 Q You'll see in the subject line -- well, actually</p> <p>23 let me take a step back. This is an e-mail from</p> <p>24 Professor Gaddie to you and Mr. McLeod; correct?</p> <p>25 A That's what it appears to be, yes.</p>	<p>1 me doing that.</p> <p>2 Q Do you recall speaking with him at all about the</p> <p>3 senate disenfranchisement issue?</p> <p>4 A Well, we must have. You know, because it's</p> <p>5 something that, you know, we watched. So we must</p> <p>6 have but I don't have any independent recollection</p> <p>7 of anything talking about it.</p> <p>8 Q Do you recall just generally speaking anything</p> <p>9 that Professor Gaddie had to say on the topic</p> <p>10 during the redistricting process?</p> <p>11 A No, no.</p> <p>12 (Exhibit No. 231 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. POLAND:</p> <p>15 Q Mr. Troupis, the court reporter has handed you a</p> <p>16 document that's been marked as Exhibit 231.</p> <p>17 A Yes.</p> <p>18 Q Can you identify that document?</p> <p>19 A It's an e-mail from me to Tad and Adam regarding</p> <p>20 scheduling a meeting with the leadership in early</p> <p>21 June of 2011.</p> <p>22 Q Right, and it's dated June 3rd; correct?</p> <p>23 A Right. These are some of the meetings I think I</p> <p>24 referred to earlier.</p> <p>25 Q All right. You're asking there, asking Mr. Ottman</p>

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<p>1 and Mr. Foltz whether Monday meetings are on with 2 the leadership to address Milwaukee. Do you see 3 that? 4 A Yes, I see that's what I said. 5 Q And again leadership, you're referring there to 6 presumably the leadership of the senate and 7 assembly? 8 A Correct, the people I identified before. The 9 senate and assembly. 10 Q Senate and assembly. When you identify or you use 11 the phrase there to address Milwaukee, do you see 12 that? 13 A Yes, I do. 14 Q What are you referring to? 15 A I mentioned a minute ago that we had regional 16 areas. You remember I just said that and that's 17 the way that you approach it. When you're doing a 18 state the size of Wisconsin, you have to do it 19 on -- you don't want to look at the whole map. 20 You're going to look at the regional areas and it 21 would have made sense. I assume this is the first 22 day of meetings because everything in Wisconsin 23 begins with Milwaukee. I mean, that's the way you 24 draw a map and that's -- that would be the first 25 one.</p>	<p>1 Districts 8 and 9 in Milwaukee? 2 A I think I reflected a little bit earlier that 3 we -- we had been making contacts with national -- 4 the national MALDEF organization and I don't know 5 the timing of that. As I recall, I had contacted 6 Nina Perales before this and I don't know whether 7 I had made contact with Elisa Alfonso at that 8 point. I don't remember. There would be a time 9 being issue, so I don't recall. 10 Q Do you know whether the Monday meetings that 11 you're referring to in this e-mail resulted in a 12 final decision about the orientation and makeup of 13 Districts 8 and 9? 14 A I am sure that it did not result in a final 15 determination. 16 Q Do you recall whether there were various options 17 that were presented at the Monday meetings 18 referred in here for the makeup of 19 Districts 8 and 9? 20 A I don't recall but it would have been a process, 21 so it would not surprise me if, in fact, there 22 were a number of options presented. 23 Q Were you present at a meeting where a final option 24 for Districts 8 and 9 was chosen to be presented 25 to the legislature?</p>
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<p>1 Q Do you recall those meetings with the leadership 2 to address Milwaukee in June? 3 A I recall having those meetings and -- yes. 4 Q Were there any specific topics that were addressed 5 when you were looking at the region, the Milwaukee 6 region? 7 A Well, I suspect that -- but I -- we had to have 8 discussed the legal issues surrounding the 9 Milwaukee legislative districts because that's why 10 you start with Milwaukee, because it's the only 11 substantial area of the state where there's 12 substantial minority populations. 13 Q And so you would have been discussing voting 14 rights act types of issues? 15 A I would assume so, yes. 16 Q That would have been both in the African-American 17 and Latino districts as well? 18 A Again, I assume that. But as I sit here today, 19 I don't have -- if you have some document perhaps 20 but I don't have an independent recollection 21 except to say that of course I assume we would 22 have and we would have addressed them at that 23 point. 24 Q Do you recall specifically the -- any discussions 25 that were had about the Latino districts,</p>	<p>1 A Again, you make it sound very black and white. 2 I don't know that there ever was a final option. 3 There were three different proposals with regard 4 to the Latino community presented at a public 5 hearing. So, you know, even then I -- there was 6 no final option. 7 Q In terms of those proposals that were made at the 8 public hearing, there had to be a decision made 9 that -- 10 A Yes. 11 Q -- those would be correct, the options that would 12 be presented; correct? 13 A Yes. 14 Q Who was it that made the decision that those would 15 be the options presented? 16 A Do you mean the decision to present those three? 17 Q Correct. 18 A The group. I don't think there was any one 19 individual involved. There are three options. 20 I don't think there was one person involved, one 21 person was involved. 22 Q That would have been the group at the regional 23 meetings that you're talking about? 24 A No, no. It would have been -- at this point in 25 time at about -- that's a little later in time, so</p>

<p style="text-align: right;">Page 198</p> <p>1 don't get your times confused here. In early 2 June, this is the first time there's any 3 presentation of maps at all. So until then my 4 recollection is Joe and Tad and Adam, there had 5 been a series of meetings with legislators. They 6 had gone through a process to get to these 7 regional proposals that I just mentioned, and so 8 that they could then, after meeting with leaders 9 early in June, address concerns that anybody on 10 the leadership would have about that. 11 So the leadership was the only people 12 that -- only people who would have access to the 13 entire map. So they now knew how, as I said, that 14 ripple effect, all of those different effects 15 could be, and so they would have had questions or 16 concerns or about various things in those maps. 17 And then -- and then during June they, 18 Tad and Adam and Joe would go back and they would 19 attempt to address those concerns and blend it 20 into a statewide map, which, as I said, there's an 21 infinite number of possibilities. 22 During that same time period we were 23 consulting with, as I said, national Latino or 24 MALDEF and that's what I was doing -- I don't 25 know, other people may have been doing different</p>	<p style="text-align: right;">Page 200</p> <p>1 Q If anything, it should settle a question. 2 A Oh, okay. 3 Q I've handed you -- 4 A This one's okay to look at; right? I don't 5 remember this one. 6 MR. EARLE: If you have a travel 7 company, it's a communication from a travel 8 company. I don't know how it could be privileged. 9 MR. POLAND: Well, it's actually -- 10 BY MR. POLAND: 11 Q Mr. Troupis, I've handed you a document that 12 previously was marked as Exhibit 139. I'll give 13 you a minute to look at it. And I really only 14 intend to ask you about what's on the first page 15 and it's simply to fix time. 16 A Let me go ahead and look at this. 17 Q Yes, please go ahead. 18 A Okay. 19 Q Mr. Troupis, can you identify Exhibit 139, please? 20 A Well, it's a sequence of e-mails from me or my 21 daughter, Sarah, who is also one of the partners 22 in my law firm, to Professor Grofman. 23 Q And I really only want to focus on the very first 24 page. You see that, looking at this second e-mail 25 down, which appears to be dated around July 7,</p>
<p style="text-align: right;">Page 199</p> <p>1 things -- in order to consider options that would 2 be legally acceptable, and so that's what we were 3 doing. 4 So that's the long answer to say even 5 as we got -- it wouldn't have been until the end 6 of June or early July that you would have started 7 to see configurations that you could safely say, 8 I think this is pretty well done. I -- that would 9 be my take. 10 Q In your answer, Mr. Troupis, you referred to 11 leadership having access to the entire map? 12 A I believe they are the only ones that had access 13 to the entire map. 14 Q When you saw leadership, are you referring to the 15 majority leadership? 16 A Yes, Scott, Jeff, the speaker, the majority 17 leader. I think I would add Senator Zipperer and 18 Robin Vos to that list, maybe Representative 19 Suder. I don't remember. 20 Q It would not have included members of the minority 21 party at that point in time; correct? 22 A That's correct. 23 Q I think we're finally going to get to your answer 24 on Dr. Grofman. 25 A Oh, good. Bernie would be happy.</p>	<p style="text-align: right;">Page 201</p> <p>1 2011. I think it's the same e-mail chain. It's a 2 little bit difficult to tell exactly, but I'm 3 focusing on the portion of the document that says: 4 My father, Jim Troupis, ask that I forward you 5 these maps while he is away for the next few days. 6 If this is not the information you were expecting, 7 please let me know and I will see about getting 8 you what are you looking for. Thanks. Do you see 9 that? 10 A Yes, I do. 11 Q Do you recall asking Sarah to send or forward maps 12 to Dr. Grofman? 13 A Yes, I do. 14 Q Why were you asking maps to be sent to Dr. Grofman 15 on or round July 7, 2011? 16 A I was interested in his opinion about them. 17 Q What maps were being sent? 18 A I assume these are the maps from the Milwaukee 19 area. 20 Q And I know we're having a hard time fixing dates. 21 Unfortunately there's a document on the list. 22 I can't ask you about it. It would help us to fix 23 date but we'll just have to -- 24 A Well, it says July 7, so that's about right. 25 Q Do you recall, was it -- was it before or after</p>

<p style="text-align: right;">Page 202</p> <p>1 the -- strike that question. Do you recall when</p> <p>2 you first spoke with Dr. Grofman about looking at</p> <p>3 maps pertaining to Act 43 or Act 44?</p> <p>4 A It would have been --</p> <p>5 MR. HODAN: I would ask the counsel</p> <p>6 not to speculate.</p> <p>7 THE WITNESS: I don't know that we</p> <p>8 ever spoke. These e-mails suggest that we</p> <p>9 exchanged phone calls and I think that's probably</p> <p>10 right because he was in Paris and -- so I don't</p> <p>11 know -- I told you before the whole thing with</p> <p>12 Professor Grofman was a little embarrassing for me</p> <p>13 because I wasn't able to reach him and I wasn't</p> <p>14 able to get ahold of him, and my very good friend,</p> <p>15 Irwin Chemerinsky, who's the dean of the law</p> <p>16 school at Irvine is -- I hadn't seen him in a</p> <p>17 while and I was interested to hear if Professor</p> <p>18 Grofman had gotten to Irwin. So the two of us</p> <p>19 were -- in part it was a very personal thing to me</p> <p>20 as well as a professional matter.</p> <p>21 MR. EARLE: So you were obviously</p> <p>22 influenced by Irwin.</p> <p>23 THE WITNESS: Obviously, obviously.</p> <p>24 MR. POLAND: This is still my</p> <p>25 examination, Mr. Earle. Levity again.</p>	<p style="text-align: right;">Page 204</p> <p>1 or anything like that, but I respected his opinion</p> <p>2 and I think he respects mine. So at this point in</p> <p>3 time I was -- I was going to use him as a sounding</p> <p>4 board.</p> <p>5 BY MR. POLAND:</p> <p>6 Q But you were seeking his input?</p> <p>7 A But you made it sound like -- and I just don't</p> <p>8 want you to misunderstand, I had not been retained</p> <p>9 at this point in time and I doubt there was any</p> <p>10 even question about retention at this point in</p> <p>11 time, so it never happened.</p> <p>12 Q And that's essentially what I'm getting to was</p> <p>13 whether there was ever any formal retention for</p> <p>14 the purpose of the redistricting.</p> <p>15 A No. Well, I -- I have heard now that he is a</p> <p>16 witness in these proceedings and I can see that</p> <p>17 because you've got Grofman here, so -- so</p> <p>18 presumably you know, he's participating.</p> <p>19 Q Yes. Just to distinguish between his role as a</p> <p>20 testifying expert in the litigation and a</p> <p>21 consulting expert as part of the redistricting</p> <p>22 process. That's the distinction I'm trying to</p> <p>23 drawing.</p> <p>24 A Oh, sure, and at this point I don't even know.</p> <p>25 Did he ever express any -- he asked about the</p>
<p style="text-align: right;">Page 203</p> <p>1 THE WITNESS: But we can talk about</p> <p>2 Irwin, yes, if we'd like.</p> <p>3 MR. DAUGHTERY: Let's go off the</p> <p>4 record for that.</p> <p>5 BY MR. POLAND:</p> <p>6 Q Mr. Troupis, do you know whether by July 7 you had</p> <p>7 communicated with Dr. Grofman about potentially</p> <p>8 serving as a consultant or an expert of some type</p> <p>9 as part of the redistricting process?</p> <p>10 MR. HODAN: Objection, asked and</p> <p>11 answered.</p> <p>12 THE WITNESS: Well, we didn't -- you</p> <p>13 have to remember the difference in relationships</p> <p>14 here. I've known Professor Grofman since probably</p> <p>15 the late 1980's. He had been involved in two</p> <p>16 prior redistricting efforts here. He had been,</p> <p>17 you know -- he's internationally renowned and</p> <p>18 whether he says of me or not, I consider him a</p> <p>19 friend and I've always enjoyed his company.</p> <p>20 So, you know, in this instance,</p> <p>21 I didn't -- you've made it sound so formal and I</p> <p>22 think that would be incorrect. I think at this</p> <p>23 point in time I was more likely using him as a</p> <p>24 sounding board. Obviously he hadn't been</p> <p>25 retained. Obviously there hadn't been any money</p>	<p style="text-align: right;">Page 205</p> <p>1 number of districts. He's very familiar with</p> <p>2 Milwaukee, I think. You know, that would have</p> <p>3 been the sum total of what might have occurred.</p> <p>4 It wasn't formal. It certainly wasn't formal.</p> <p>5 Q Did you ever get any feedback from Dr. Grofman on</p> <p>6 the maps that were sent?</p> <p>7 A I don't recall getting any but I might have.</p> <p>8 I just don't recall. The maps were shortly after</p> <p>9 that, yeah, I don't recall. I'm trying to sit</p> <p>10 here and think. I don't remember.</p> <p>11 Q And I note it's July 7th and the public hearing</p> <p>12 was shortly after that.</p> <p>13 A Correct.</p> <p>14 Q Just the next week. Do you recall whether --</p> <p>15 receiving any feedback from Dr. Grofman on the</p> <p>16 maps before the July 13 hearing?</p> <p>17 A I don't recall any if I did. It may -- perhaps</p> <p>18 there's an e-mail or something but I don't recall.</p> <p>19 MR. POLAND: Let's go ahead and mark</p> <p>20 this.</p> <p>21 (Exhibit No. 232 was marked for</p> <p>22 identification.)</p> <p>23 BY MR. POLAND:</p> <p>24 Q Mr. Troupis, the court reporter has handed you a</p> <p>25 copy of Exhibit 232, which appears to be a long</p>

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<p>1 chain of e-mails or a number of different e-mails. 2 I only have questions on two specifically. I will 3 tell you just on numbers 41 and 49. Of course 4 you're free to look at as many as you want to. 5 A Okay. I think I know what this is. 6 Q Mr. Troupis, I'd like to direct your attention to 7 two of the specific e-mails in this chain. To the 8 extent that you need to refer to others, of course 9 you may. Number -- I'm sorry. I think I said 41 10 before. I should have said 46, it looks like the 11 writing is a little bit hard to distinguish. This 12 is the last e-mail on the second page. 13 A This is the one from Eric to me. 14 Q This is the one from Eric on Friday, June 24th at 15 4:03 p.m. 16 A Okay. 17 Q Mr. McLeod is stating to you: I think all the 18 members are very happy with their new districts 19 based on Tad's and Adam's reports to date. Do you 20 see that? 21 A Yes, I do. 22 Q Do you know what the reports are that Mr. McLeod 23 is talking about there? 24 A No. 25 Q Did you ever have a discussion with Mr. McLeod</p>	<p>1 June among the leadership which I described a 2 minute ago as the regional meetings to go over it 3 where they would see sort of the sum total 4 product, and then after that you would now have to 5 deal with, okay, we've seen it all, we've got it 6 all here, and presumably at this point you would 7 have some members that you needed to go and talk 8 to because there would be changes that are 9 occurring during the June period, and I reflected 10 on some of those changes that were going on in 11 Milwaukee earlier with Peter. You know, that this 12 is a -- this is a time period when there's changes 13 going on. 14 Q And if we flip back, as a matter of fact, just two 15 pages in the document to e-mail number 49? 16 A Oh, okay, sure. 17 Q Does that essentially reflect -- 18 A That certainly reflects what I just said, doesn't 19 it, I think? 20 Q Mr. Ottman is taking is there we have a few 21 unhappy members? 22 A Yes. 23 Q Do you recall Mr. Ottman expressing that to you? 24 A No, I don't. 25 Q Mr. Ottman goes on in that e-mail to say the only</p>
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<p>1 about any of the members' reactions to new 2 districts? 3 A No. This would have been all that I recall about 4 that. I'm pointing to number 46. His comment is 5 all I remember hearing from him about that. 6 Q Did you speak with Mr. McLeod at all about the 7 process where members were able to see what their 8 new districts looked like? 9 A I don't recall any discussions about that. 10 Q Did you ever discuss that with Mr. Ottman or 11 Mr. Foltz? 12 A No, I don't recall any specific discussions about 13 that. 14 Q Generally do you recall any discussions? 15 A Yes. 16 Q What do you recall generally? 17 A Well, what I described earlier, which is the 18 series of meetings that would go on over a time 19 period that would involve first gathering 20 information from the members as to what was 21 important to them and then subsequently building 22 maps for the whole state to try as best they could 23 to take that information that they had gotten into 24 account. 25 And then there was the meetings in</p>	<p>1 problem with this draft is that they included the 2 language on municipalities redrawing their ward 3 boundaries in this legislation rather than in part 4 of the separate legislation that also deals with 5 venue changes. Do you see that? 6 A Yes, I do. 7 Q Do you recall discussing that topic at all with 8 Mr. Ottman or anyone else? 9 A Well, the or anyone else, yes, I certainly do 10 recall that discussion. 11 Q Who did you discuss that with? 12 A Well, that would be with Ray Taffora primarily. 13 Q Why would that have been a problem? 14 A Well, it's only a problem in the sense of the 15 drafting and nature of drafting language. I'm not 16 a legislative expert when it comes to drafting 17 legislation but Ray Taffora is probably the single 18 expert in the state of Wisconsin on drafting of 19 legislation. He spends his entire legal career 20 doing it. And so Ray's role here was -- this is 21 what this is talking about, is he needed to 22 address the drafting of the language, vis-a-vis 23 the ward boundaries and the like, that were going 24 to be altering the prior structure of the process. 25 So Raymond would have to deal with that as a</p>

<p style="text-align: right;">Page 210</p> <p>1 drafting issue. So I -- that's what that is.</p> <p>2 Q Did you have any discussions with Mr. Taffora</p> <p>3 about drafting the language relating to ward</p> <p>4 boundaries?</p> <p>5 A Oh, yeah, I'm sure I did.</p> <p>6 Q Were there any issues that had arisen as to ward</p> <p>7 boundaries with the legislation that you're aware</p> <p>8 of?</p> <p>9 A Yes.</p> <p>10 Q What were those issues?</p> <p>11 A Well, I can't delineate precisely what the ward</p> <p>12 boundary issues were but the -- there was a lot of</p> <p>13 misunderstanding about the process by which these</p> <p>14 districts would be completed, and that</p> <p>15 misunderstanding continued right through the</p> <p>16 hearing on July 13, with regard to whether ward</p> <p>17 boundaries that had already been settled upon by</p> <p>18 local communities and the like would have to be</p> <p>19 maintained or not and what's the sequence of these</p> <p>20 things.</p> <p>21 So when you were changing, because of</p> <p>22 the nature of this particular legislation, the</p> <p>23 ward boundary issue had arisen. So that's what</p> <p>24 all this is referring to. And again, I was and</p> <p>25 remain very deferential to another member of the</p>	<p style="text-align: right;">Page 212</p> <p>1 Q Were you part of the discussion of whether the</p> <p>2 census blocks or census tracts should be used to</p> <p>3 create assembly districts?</p> <p>4 A You know, that's a level of detail I just don't</p> <p>5 remember.</p> <p>6 MR. POLAND: Why don't we go off the</p> <p>7 record.</p> <p>8 THE VIDEOGRAPHER: We are going off</p> <p>9 the record at 9:06 p.m.</p> <p>10 (A recess was taken.)</p> <p>11 THE VIDEOGRAPHER: We are back on the</p> <p>12 record at 9:20 p.m.</p> <p>13 EXAMINATION</p> <p>14 BY MR. HODAN:</p> <p>15 Q Good evening, Mr. Troupis.</p> <p>16 A Good evening.</p> <p>17 Q I represent the Government Accountability Board</p> <p>18 members in their individual capacity and I have</p> <p>19 some follow-up questions. You were asked the</p> <p>20 questions about District 8 and District 9. Those</p> <p>21 are the Hispanic districts.</p> <p>22 A Yes.</p> <p>23 Q In this case there's an allegation that the maps</p> <p>24 and the map drawers in particular tried to</p> <p>25 intentionally discriminate against the Hispanic</p>
<p style="text-align: right;">Page 211</p> <p>1 team in this case, Mr. Taffora, who is a drafting</p> <p>2 expert.</p> <p>3 Q Mr. Troupis, is it your understanding that in</p> <p>4 previous redistricting efforts municipalities had</p> <p>5 completed their ward process before the time that</p> <p>6 maps were created and the districts were created?</p> <p>7 A Yes, and the other party had been attempting to</p> <p>8 change that for quite some time, and the</p> <p>9 Republicans were adopting that as one of the</p> <p>10 proposals here, that it ought to start at the</p> <p>11 state level and go to the local level rather than</p> <p>12 the reverse. So this was -- this has been</p> <p>13 something that people have talked about for a long</p> <p>14 time on both sides of the aisle.</p> <p>15 Q And is it your understanding that in the 2011</p> <p>16 redistricting, rather than waiting for the</p> <p>17 municipalities to finish their process of creating</p> <p>18 wards, census blocks were used to create assembly</p> <p>19 district boundaries?</p> <p>20 A I don't know the latter part about census blocks</p> <p>21 and the like because I wasn't involved in the</p> <p>22 actual construction of these things, but the --</p> <p>23 the process of ward boundaries was changed and how</p> <p>24 those were adopted within the context of the state</p> <p>25 legislative map.</p>	<p style="text-align: right;">Page 213</p> <p>1 community in those districts. Was that your</p> <p>2 intent and your role as counsel?</p> <p>3 A Absolutely not.</p> <p>4 Q And what was your intent and what was the group's</p> <p>5 intent in drawing Districts 8 and 9?</p> <p>6 A Generally in District 8 and 9 --</p> <p>7 MR. EARLE: I'm going to object to the</p> <p>8 form.</p> <p>9 THE WITNESS: In District 8 and 9</p> <p>10 you're dealing with --</p> <p>11 MR. HODAN: What's the --</p> <p>12 MR. EARLE: It's compound. He asked</p> <p>13 for the intent of two different entities, him and</p> <p>14 the group, and as to the group I object on the</p> <p>15 grounds of foundation.</p> <p>16 BY MR. HODAN:</p> <p>17 Q Do you have an understanding as to how District 8</p> <p>18 was drawn?</p> <p>19 A Yes.</p> <p>20 Q Do you have an understanding as to how District 9</p> <p>21 was drawn?</p> <p>22 A Yes, I do.</p> <p>23 Q And 8 and 9 are adjoining districts; correct?</p> <p>24 A That's correct.</p> <p>25 Q And there's a line between 8 and 9; correct?</p>

<p style="text-align: right;">Page 214</p> <p>1 A Well, yes, technically, of course.</p> <p>2 Q So if you reconfigure that line, you affect</p> <p>3 either -- you affect both 8 and 9; correct?</p> <p>4 A Yes, as a practical matter, of course.</p> <p>5 Q So with that background, can you tell me what the</p> <p>6 intent was in drawing Districts 8 and 9?</p> <p>7 MR. EARLE: I'm going to object to the</p> <p>8 question on two grounds. Foundation. I think he</p> <p>9 testified that he didn't remember the actual</p> <p>10 designation of the lines. So --</p> <p>11 MR. HODAN: You can go ahead and</p> <p>12 answer.</p> <p>13 MR. POLAND: Join in the objection to</p> <p>14 form as well.</p> <p>15 THE WITNESS: Okay. Whenever we would</p> <p>16 look at -- whenever I would like at from a legal</p> <p>17 perspective the map of a minority district, a</p> <p>18 district in which there's a minority population,</p> <p>19 in this case the Latino population, you're going</p> <p>20 to be very conscious of a number of things, and</p> <p>21 it's not an exhaustive list but we were certainly</p> <p>22 very conscious of a number of things.</p> <p>23 Number one was that the prior court in</p> <p>24 2002 had drawn a minority/majority district for</p> <p>25 the Latino community of approximately 58 percent</p>	<p style="text-align: right;">Page 216</p> <p>1 district, that we would make that happen. And so</p> <p>2 we -- we configured this in very significant</p> <p>3 measure to make sure that if it was possible, you</p> <p>4 could have two representatives from that community</p> <p>5 in the state legislature if they so chose.</p> <p>6 We also thought that there would be an</p> <p>7 opportunity for a senate district over time and</p> <p>8 again that's a trending question. We certainly</p> <p>9 had what would be called an influence district</p> <p>10 there because you had two assembly districts. So</p> <p>11 we then -- we certainly wanted to focus on the</p> <p>12 growth in the third assembly district and then the</p> <p>13 senate district would encompass what we would hope</p> <p>14 would be eventually a majority/minority district</p> <p>15 for the state senate as well. So we were</p> <p>16 conscious of trends, movements and we hoped that</p> <p>17 in that process we could accomplish that goal as</p> <p>18 well on the south side of Milwaukee.</p> <p>19 We -- I reflected a minute ago that my</p> <p>20 perspective, the legal perspective was to make</p> <p>21 sure that we complied with all of the rules and</p> <p>22 regulations as we understood them for creating</p> <p>23 these minority districts.</p> <p>24 MR. EARLE: I'm going to object to the</p> <p>25 answer as nonresponsive, a long, winding,</p>
<p style="text-align: right;">Page 215</p> <p>1 voting age population, and that seat had been held</p> <p>2 throughout the decade with, as I recall, Pedro</p> <p>3 Colon and then JoCasta now. And so we wanted</p> <p>4 to -- we certainly wanted to make sure that you</p> <p>5 would not retrograde, you would not go back. So</p> <p>6 you had a minority/majority district. You want to</p> <p>7 make sure that you don't do something to undo that</p> <p>8 district.</p> <p>9 The second thing that we want to make</p> <p>10 sure in any minority situation, and it would not</p> <p>11 be strictly in the Latino community, is that you</p> <p>12 give the community an opportunity to elect a</p> <p>13 representative of their choice. We didn't do a</p> <p>14 precise Jingles analysis because it wasn't</p> <p>15 necessarily. Again, it was already in place, a</p> <p>16 Latino representative. We knew that the community</p> <p>17 was growing.</p> <p>18 I think I reflected a little bit</p> <p>19 earlier in other testimony that we were very</p> <p>20 conscious of the fact this community was large, it</p> <p>21 was growing, it was likely to continue to grow.</p> <p>22 And so we wanted to make sure that not only would</p> <p>23 the original district remain able to elect a</p> <p>24 representative of choice of that community but</p> <p>25 that also, if it was possible to create a second</p>	<p style="text-align: right;">Page 217</p> <p>1 meandering narrative and move to strike.</p> <p>2 BY MR. HODAN:</p> <p>3 Q How did the old District 8 compare to the new</p> <p>4 District 8 in terms of voting age population, if</p> <p>5 you recall?</p> <p>6 A Slightly larger.</p> <p>7 Q And did you view that as an improvement to the</p> <p>8 district or a detriment to the Hispanic community?</p> <p>9 A I certainly thought it was an improvement. Again,</p> <p>10 it could have been -- it was within the range that</p> <p>11 you'd expect.</p> <p>12 Q And do you recall how old District 9 compared to</p> <p>13 new District 9 with respect to voting age</p> <p>14 population?</p> <p>15 A A dramatic increase.</p> <p>16 Q And did you view that as an improvement to the</p> <p>17 district?</p> <p>18 A Very much so.</p> <p>19 Q Do you recall in District 9 whether that seat was</p> <p>20 now an open seat?</p> <p>21 A You were mentioning a bit ago about various</p> <p>22 factors that you take into account, and I think my</p> <p>23 prior testimony I was also talking about that. It</p> <p>24 was -- it would be an open seat in the new</p> <p>25 configuration.</p>

<p style="text-align: right;">Page 218</p> <p>1 Q And why was that significant?</p> <p>2 A Well, particularly in a new district, the district</p> <p>3 that is now newly minority/majority, it would give</p> <p>4 at the earliest possible time that community an</p> <p>5 opportunity to elect a representative of their</p> <p>6 choice.</p> <p>7 If you have -- there's an incumbent</p> <p>8 benefit that -- that you have. So that if you</p> <p>9 have a nonminority representative and was sitting</p> <p>10 now in the new minority/majority district, it</p> <p>11 might well -- there is a factor that has to be</p> <p>12 taken into account. This avoided that potential</p> <p>13 pitfall.</p> <p>14 Q So is it fair to say that in your view Districts 8</p> <p>15 and District 9 were improvements over the</p> <p>16 Court-drawn plan?</p> <p>17 A They certainly were.</p> <p>18 Q Did you share that opinion with --</p> <p>19 MR. EARLE: I'm going to object to the</p> <p>20 last question as leading.</p> <p>21 BY MR. HODAN:</p> <p>22 Q How did you feel about the difference between old</p> <p>23 District 8 and new Districts 8 and 9?</p> <p>24 A Well, we were -- we went to great lengths, at</p> <p>25 least I thought we did, to ensure that we made a</p>	<p style="text-align: right;">Page 220</p> <p>1 MR. HODAN: It's JRT123.</p> <p>2 MR. EARLE: Why don't we --</p> <p>3 THE WITNESS: Why don't we get that</p> <p>4 out of the folder there.</p> <p>5 MR. HODAN: I don't need one while the</p> <p>6 witness has it.</p> <p>7 MR. EARLE: But, you know, what about</p> <p>8 the other exhibits you have. So we'll get them</p> <p>9 done.</p> <p>10 MR. HODAN: Great.</p> <p>11 THE WITNESS: Make copies.</p> <p>12 MR. EARLE: This is going --</p> <p>13 THE VIDEOGRAPHER: You want to go off?</p> <p>14 THE WITNESS: Yes.</p> <p>15 THE VIDEOGRAPHER: We are going off</p> <p>16 record at 9:31 p.m.</p> <p>17 (Discussion off the record.)</p> <p>18 THE VIDEOGRAPHER: We are back on the</p> <p>19 record at 9:38 p.m.</p> <p>20 MR. HODAN: Could you plead read back</p> <p>21 the last question?</p> <p>22 (The record was read as follows:</p> <p>23 "I'm going to show you what's been</p> <p>24 marked as Exhibit 1168. I don't have a copy. You</p> <p>25 can look at it.")</p>
<p style="text-align: right;">Page 219</p> <p>1 significant improvement in those two districts, 8,</p> <p>2 9, and then potentially the senate district by</p> <p>3 consulting with MALDEF directly.</p> <p>4 Q Did you share your view about Districts 8 and 9</p> <p>5 with others?</p> <p>6 A Yes, I did.</p> <p>7 Q Did you share -- and who did you share those views</p> <p>8 with?</p> <p>9 A Well, primarily from my perspective I shared them</p> <p>10 with the Mexican American Legal Defense Fund,</p> <p>11 which is MALDEF. I've been referring to it by the</p> <p>12 acronym. And we shared with them all the</p> <p>13 information that we could that they asked for.</p> <p>14 Q I'm going to show you what's been marked as</p> <p>15 Exhibit 1168. I don't have a copy. You can look</p> <p>16 at it.</p> <p>17 MR. DAUGHTERY: Is that one of the</p> <p>18 ones that you had Bate stamped? I'm just trying</p> <p>19 to make sure it's not on my list here.</p> <p>20 MR. HODAN: It's not on your list.</p> <p>21 MR. EARLE: Why don't we do that.</p> <p>22 I need to get a copy.</p> <p>23 MR. HODAN: Actually you have a copy.</p> <p>24 It's JRT --</p> <p>25 MR. EARLE: I don't have a copy here.</p>	<p style="text-align: right;">Page 221</p> <p>1 BY MR. HODAN:</p> <p>2 Q Mr. Troupis, I'm showing you what's been marked as</p> <p>3 Exhibit 1168. And I direct your attention to</p> <p>4 the -- to the middle of the document that appears</p> <p>5 to be an e-mail from you to Mr. McLeod; correct?</p> <p>6 A Yes.</p> <p>7 Q Ottman, Taffora?</p> <p>8 A The one dated July 26th.</p> <p>9 Q July 26th at 11:30 a.m.; is that correct?</p> <p>10 A Yes.</p> <p>11 Q Could you read that into the record, please?</p> <p>12 MR. POLAND: Object to the form of the</p> <p>13 question.</p> <p>14 BY MR. HODAN:</p> <p>15 Q This is an e-mail from you?</p> <p>16 A Yes, it is.</p> <p>17 Q And what did you say in this e-mail?</p> <p>18 MR. POLAND: Object to the form.</p> <p>19 THE WITNESS: I said I believe this is</p> <p>20 the information I also just referred to. We've</p> <p>21 had some good articles come out about the Hispanic</p> <p>22 districts, pointing out that the percent that</p> <p>23 elected Hispanic reps -- rep in the past was lower</p> <p>24 than ours and it is a nice contrast. That's the</p> <p>25 reason I like to add what the prior map had. The</p>

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<p>1 numbers demonstrate without comment how good this</p> <p>2 is to for minority populations. No one should</p> <p>3 comment, just provide the numbers. Jim.</p> <p>4 BY MR. HODAN:</p> <p>5 Q That first sentence where you said I believe that</p> <p>6 is the information I also just referred to, do you</p> <p>7 know what you were talking about?</p> <p>8 A I assume it's the information about the specific</p> <p>9 legislative districts and the minority populations</p> <p>10 in those districts, I assume.</p> <p>11 MR. EARLE: I'm going to object to the</p> <p>12 question and move to strike. Speculation.</p> <p>13 BY MR. HODAN:</p> <p>14 Q The second sentence when you said we've had some</p> <p>15 good articles come out about the Hispanic</p> <p>16 districts pointing out the percentage of elected</p> <p>17 Hispanic reps in the past was lower than ours and</p> <p>18 it is a nice contrast, that's the reason I like to</p> <p>19 add what the prior map had, what are you referring</p> <p>20 to there?</p> <p>21 A Just what I'm saying, it's that we, during the</p> <p>22 course of the hearings which had taken place just</p> <p>23 prior to this, there had been information</p> <p>24 provided, quite explicit information about the</p> <p>25 populations of all the districts, including</p>	<p>1 and it's truly infinite. You can draw lines any</p> <p>2 number of ways. When we look to experts here</p> <p>3 traditionally we're looking at experts to make</p> <p>4 sure that we comply with federal laws, the Voting</p> <p>5 Rights Act or otherwise and the districting laws</p> <p>6 in a statistical analysis. I'm not imposing my</p> <p>7 views or anybody else's views but you look at it</p> <p>8 from a statistical perspective to make sure that</p> <p>9 you are, in fact, achieving what you believe</p> <p>10 you're achieving, compliance with those laws.</p> <p>11 Q Now, you were involved in the redistricting in the</p> <p>12 1990's; is that correct?</p> <p>13 A Yes, I was.</p> <p>14 Q Were experts retained in connection with that</p> <p>15 litigation?</p> <p>16 A Yes.</p> <p>17 Q Were experts, if you know, obtained prior to</p> <p>18 litigation?</p> <p>19 A Yes.</p> <p>20 Q Do you know, did the Democrats retain experts in</p> <p>21 the 1990's?</p> <p>22 A Yes, certainly they did.</p> <p>23 Q And you were involved in the 2000 redistricting;</p> <p>24 is that right?</p> <p>25 A Yes, I was.</p>
Page 223	Page 225
<p>1 information about the minority populations in</p> <p>2 those district. This particular e-mail is</p> <p>3 referring to those numbers relative to the</p> <p>4 Hispanic or Latino Districts 8 and 9.</p> <p>5 Q And the last sentence in that e-mail where it</p> <p>6 reads the numbers demonstrate without comment how</p> <p>7 good this is for minority populations -- pardon</p> <p>8 me. The second last sentence, it reads the</p> <p>9 numbers demonstrate without comment how good this</p> <p>10 is for the minority populations, what point were</p> <p>11 you trying to make there?</p> <p>12 A That we had with this redistricting improved</p> <p>13 dramatically the opportunity of a Latino</p> <p>14 population in Milwaukee to elect representatives</p> <p>15 of their choice.</p> <p>16 Q And the last sentence reads no one should comment,</p> <p>17 just provide the numbers. What did you mean</p> <p>18 there?</p> <p>19 A That's a -- the numbers speak for themselves.</p> <p>20 Q Now, you were asked some questions about seeking</p> <p>21 the assistance of experts in the redistricting</p> <p>22 process. Why were you looking for assistance from</p> <p>23 experts?</p> <p>24 A Well, ultimately these questions are -- there's an</p> <p>25 infinite variety of districts that can be drawn</p>	<p>1 MR. EARLE: Wait. On the question</p> <p>2 about the Democrats I'm going to object on the</p> <p>3 grounds of foundation.</p> <p>4 BY MR. HODAN:</p> <p>5 Q Are you aware of the -- what particular experts</p> <p>6 would have been retained by any of the Democrats</p> <p>7 in the 1990's?</p> <p>8 A Yes.</p> <p>9 Q And who were some of those experts, if you recall?</p> <p>10 A Was I -- I said yes but you saw I hesitated</p> <p>11 because my memory may not be as good as it once</p> <p>12 was.</p> <p>13 MR. EARLE: Move to strike the former</p> <p>14 testimony.</p> <p>15 THE WITNESS: No. I mean, like I</p> <p>16 said, I know that they had experts. I'm just not</p> <p>17 100 percent sure of the names because the -- the</p> <p>18 record will reflect what it was in those federal</p> <p>19 proceedings.</p> <p>20 BY MR. HODAN:</p> <p>21 Q So, for example, if we were to look at</p> <p>22 Mr. Grofman's declaration from 1992, we might be</p> <p>23 able to discern what experts were there?</p> <p>24 MR. EARLE: I'm going to object.</p> <p>25 You're leading.</p>

<p style="text-align: right;">Page 226</p> <p>1 THE WITNESS: In the next -- I can</p> <p>2 explain how it would work.</p> <p>3 MR. EARLE: You're asking him to</p> <p>4 speculate as to what in Mr. Grofman's report.</p> <p>5 THE WITNESS: I wouldn't be</p> <p>6 speculating about what's in Mr. Grofman's report.</p> <p>7 It would be there because of the way in which the</p> <p>8 evidence went in.</p> <p>9 BY MR. HODAN:</p> <p>10 Q And how did the evidence go in?</p> <p>11 A We had direct testimony went in by way of</p> <p>12 declarations and affidavits and there was only</p> <p>13 cross-examination.</p> <p>14 Q And are you familiar with a gentleman by the name</p> <p>15 of Joel Gratz?</p> <p>16 A Yes.</p> <p>17 Q Okay. And do you recall what role he had in 2002?</p> <p>18 MR. POLAND: Object to the form.</p> <p>19 THE WITNESS: One of the people</p> <p>20 involved on the other side of the case.</p> <p>21 BY MR. HODAN:</p> <p>22 Q Do you know, did he have any involvement in</p> <p>23 drawing maps for the Democrats in 2002?</p> <p>24 A That my recollection is that he was one of the</p> <p>25 people that actually drafted those maps in that</p>	<p style="text-align: right;">Page 228</p> <p>1 BY MR. HODAN:</p> <p>2 Q Did any of the Democrats ever attempt to share a</p> <p>3 map with you or your group?</p> <p>4 A No.</p> <p>5 MR. POLAND: Object to the form of the</p> <p>6 question, foundation.</p> <p>7 THE WITNESS: No.</p> <p>8 MR. HODAN: Foundation as to whether</p> <p>9 he ever received a map from the Democrats?</p> <p>10 MR. POLAND: That wasn't your</p> <p>11 question.</p> <p>12 BY MR. HODAN:</p> <p>13 Q Did you ever receive a map from the Democrats?</p> <p>14 A No.</p> <p>15 Q They didn't share one with you?</p> <p>16 A No, they did not.</p> <p>17 Q Were they secretive about it?</p> <p>18 MR. POLAND: Object to the form of the</p> <p>19 question. Foundation.</p> <p>20 THE WITNESS: I wouldn't necessarily</p> <p>21 use secretive. It's a part of the redistricting</p> <p>22 process that's been common for years.</p> <p>23 BY MR. HODAN:</p> <p>24 Q And you've been part of that process for the last</p> <p>25 30 years. During that last 30 years, do you ever</p>
<p style="text-align: right;">Page 227</p> <p>1 time period.</p> <p>2 Q Throughout this process, there has been a</p> <p>3 suggestion that there's been this grand</p> <p>4 conspiracy, everything is secretive. During this</p> <p>5 process you indicated that each of the caucuses</p> <p>6 received terminals; is that right?</p> <p>7 A Yes.</p> <p>8 MR. POLAND: Object to the form of the</p> <p>9 question.</p> <p>10 MR. EARLE: Join.</p> <p>11 BY MR. HODAN:</p> <p>12 Q Are you aware?</p> <p>13 A Yes, I am aware.</p> <p>14 Q Okay. And do you recall what type of terminal</p> <p>15 that would be?</p> <p>16 A I wouldn't know the precise terminal but we</p> <p>17 participated in the negotiation of those</p> <p>18 arrangements in the year before the 2011 cycle.</p> <p>19 Q And was each caucus then able to use a terminal to</p> <p>20 draw a map?</p> <p>21 A Absolutely.</p> <p>22 MR. POLAND: Object to the form of the</p> <p>23 question, foundation.</p> <p>24 THE WITNESS: Yes.</p> <p>25</p>	<p style="text-align: right;">Page 229</p> <p>1 recall a situation where the Democrats shared a</p> <p>2 map with you prior to offering it to Court or to</p> <p>3 the public?</p> <p>4 MR. POLAND: Object to the form of the</p> <p>5 question.</p> <p>6 MR. EARLE: Join.</p> <p>7 THE WITNESS: I do not recall that</p> <p>8 ever happening.</p> <p>9 BY MR. HODAN:</p> <p>10 Q And you would have known that as lead counsel in</p> <p>11 both those cases; correct?</p> <p>12 MR. EARLE: Object to the form.</p> <p>13 MR. POLAND: Objection, leading.</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MR. HODAN:</p> <p>16 Q Would you have known that?</p> <p>17 A Yes.</p> <p>18 Q There is in this suggestion that somehow it was</p> <p>19 improper and secretive that the terminal to draw</p> <p>20 maps was moved over to Michael Best. Why was the</p> <p>21 terminal moved over to Michael Best?</p> <p>22 MR. POLAND: Object to the form of the</p> <p>23 question.</p> <p>24 MR. EARLE: Object to the form. Join.</p> <p>25 THE WITNESS: Well, as I think I said</p>

<p style="text-align: right;">Page 230</p> <p>1 earlier, it's a matter of efficiency above all 2 else. It's simply easier and more efficient to 3 have them in this case in a separate facility than 4 it would be to have them somewhere in the Capitol. 5 That's just the way it would work in a particular 6 office. 7 BY MR. HODAN: 8 Q Is it more convenient for the lawyers? 9 MR. POLAND: Object to the form. 10 MR. EARLE: Join in the objection to 11 the question as well. 12 THE WITNESS: When I said efficient, 13 that's part of the process. The legal part of 14 this process, as I think I explained earlier, is a 15 very important part of it, and working with the 16 lawyers is an integral part of that to comply with 17 the laws that we've been talking about. So the 18 proximity is very important. 19 BY MR. HODAN: 20 Q All right. There's been some testimony or 21 deposition testimony in this case, I'll represent 22 to you, that the Democrats might have sent one of 23 their terminals off-site. Were you aware of that? 24 MR. POLAND: Object to the form of the 25 question.</p>	<p style="text-align: right;">Page 232</p> <p>1 A Yes, I was. 2 Q And were you present for the entire testimony? 3 A Yes, I was. 4 MR. HODAN: I have one copy. I assume 5 you have a copy. 6 MR. POLAND: We've got a bunch right 7 here copied. 8 MR. HODAN: Great. Why don't we pass 9 them out. 10 MR. POLAND: Did you want me to hand 11 it to the witness? 12 MR. HODAN: Please. 13 THE WITNESS: Thank you. 14 BY MR. HODAN: 15 Q Mr. Troupis, before you is Exhibit 19, which I'll 16 represent to you is an official transcript of 17 those proceedings on July 13, 2011. 18 A Yes. 19 Q Would you turn to page 133, please? 20 A Yes. 21 Q Okay. Are you familiar with Representative 22 Zamarripa? 23 A Yes, I am. Well, I am. We don't know each other. 24 Probably the first time I met her was at this 25 hearing.</p>
<p style="text-align: right;">Page 231</p> <p>1 BY MR. HODAN: 2 Q You can go ahead and answer. 3 A I had certainly heard that. 4 MR. POLAND: Move to strike. Hearsay. 5 MR. EARLE: Join. 6 BY MR. HODAN: 7 Q Do you know, are you familiar with the entity 8 known as the Shop Consulting? 9 A I apologize. I don't. 10 Q Okay. Would you consider that somehow secretive 11 or nefarious or wrong if the Democrats had taken 12 one of their terminals and sent it somewhere else 13 to be used? 14 MR. POLAND: Object to the form of the 15 question. 16 MR. EARLE: Join. 17 BY MR. HODAN: 18 Q You can go ahead and answer. 19 A I would not think that. I would be surprised if 20 the reverse were true. 21 Q You were present during the July 13, 2011 22 committee hearing? 23 A Yes, I was. 24 Q And that would have been the joint public hearing 25 of the Wisconsin redistricting plan?</p>	<p style="text-align: right;">Page 233</p> <p>1 Q Are you aware that she is the incumbent in 2 assembly district 8? 3 A Yes. 4 Q Are you aware that she sat on this committee? 5 A Yes. 6 Q Could you read in the record, please, what she 7 said? 8 MR. POLAND: Object to -- go ahead, 9 finish your question. 10 BY MR. HODAN: 11 Q Could you read into the record -- first, you 12 indicated you were there. Do you recall what she 13 said about her districts? 14 MR. EARLE: I'm going to object to the 15 you're asking him to -- it's hearsay at this 16 point. You're offering this for the truth of 17 matter asserted. 18 MR. HODAN: Well, it's an official 19 government record. I think there is an exception 20 to the hearsay rule, but -- 21 MR. POLAND: I'm sorry. I just want 22 to get my objection. Object to the form of the 23 question. It's leading having the witness just 24 read in sworn testimony into the record is an 25 improper question and it's leading.</p>

<p style="text-align: right;">Page 234</p> <p>1 BY MR. HODAN:</p> <p>2 Q Well, let me ask you a question then. Do you</p> <p>3 recall halfway down, and I'll read what she said</p> <p>4 and then you can tell me whether you remember</p> <p>5 hearing this. She said the 8th and the 9th, the</p> <p>6 8th is my district, it is a Latino super majority</p> <p>7 district. Do you recall her indicating that?</p> <p>8 MR. POLAND: Object to the form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MR. HODAN:</p> <p>11 Q And she continued the 9th was trending that way.</p> <p>12 It is already been a Latino influence district and</p> <p>13 this does give us a larger percentage. Do you</p> <p>14 recall hearing her say that?</p> <p>15 A Yes, I do.</p> <p>16 MR. POLAND: Object to the form.</p> <p>17 BY MR. HODAN:</p> <p>18 Q She continued but the truth is that you know that</p> <p>19 the Latinos have grown by leaps and bounds here.</p> <p>20 Do you recall her saying that?</p> <p>21 A Yes, I do.</p> <p>22 MR. POLAND: Object to form.</p> <p>23 THE WITNESS: Yes, I do.</p> <p>24 BY MR. HODAN:</p> <p>25 Q And we were trending that way anyway. Do you</p>	<p style="text-align: right;">Page 236</p> <p>1 does not need the assistance of a document to have</p> <p>2 his refreshing -- his recollection refreshed. So</p> <p>3 I'd request that you asked him the questions</p> <p>4 without testimony. Ask him -- I think you need to</p> <p>5 ask him what she testified about without use of</p> <p>6 the document because --</p> <p>7 BY MR. HODAN:</p> <p>8 Q Do you recall her saying there continues to be two</p> <p>9 and I'm glad to hear that they're moving from a</p> <p>10 majority to a super majority in the 8th and 9th?</p> <p>11 A Yes.</p> <p>12 MR. POLAND: Object to form.</p> <p>13 THE WITNESS: Yes, I do.</p> <p>14 BY MR. HODAN:</p> <p>15 Q And that was an open hearing?</p> <p>16 A Yes, it was.</p> <p>17 MR. POLAND: I move to strike the</p> <p>18 entire line of questioning. Counsel's testifying</p> <p>19 by reading sworn testimony into the record and</p> <p>20 asking the witness if he recalls hearing it.</p> <p>21 MR. EARLE: And I join in the motion.</p> <p>22 MR. HODAN: And you agree this is</p> <p>23 sworn testimony?</p> <p>24 MR. POLAND: Well, that's what you</p> <p>25 represented it was.</p>
<p style="text-align: right;">Page 235</p> <p>1 recall her saying that?</p> <p>2 A Yes.</p> <p>3 MR. POLAND: Object to the form.</p> <p>4 MR. EARLE: I join in all those</p> <p>5 objections.</p> <p>6 BY MR. HODAN:</p> <p>7 Q And she continued, it's almost inevitable we just</p> <p>8 grew it, it's not that you created another one.</p> <p>9 There's not three there now. Do you recall her</p> <p>10 saying that?</p> <p>11 A Yes.</p> <p>12 MR. POLAND: Object to the form.</p> <p>13 MR. EARLE: I object to form as well.</p> <p>14 BY MR. HODAN:</p> <p>15 Q And then she continues, there continues to be two</p> <p>16 and I'm glad to hear that they're moving from a</p> <p>17 majority to a super majority in the 8th and 9th.</p> <p>18 MR. EARLE: I'm going to object.</p> <p>19 BY MR. HODAN:</p> <p>20 Q Do you recall hearing that?</p> <p>21 MR. EARLE: Let me expand on my</p> <p>22 objection. For the last five in a row, the</p> <p>23 deponent has said he remembers the statements</p> <p>24 after you asked, you read them from the record.</p> <p>25 He's now established clearly on the record that he</p>	<p style="text-align: right;">Page 237</p> <p>1 MR. HODAN: Well, I thought you just</p> <p>2 said it was sworn testimony.</p> <p>3 MR. POLAND: It's from the</p> <p>4 proceedings. It appears to be. Somebody said</p> <p>5 it's an official document.</p> <p>6 BY MR. HODAN:</p> <p>7 Q When you hear the term "super majority," does that</p> <p>8 concern you with respect to -- strike that. I'm</p> <p>9 looking for 96.</p> <p>10 MR. POLAND: Is that one that's</p> <p>11 already been marked, Patrick?</p> <p>12 MR. EARLE: 96.</p> <p>13 MR. HODAN: 96.</p> <p>14 BY MR. HODAN:</p> <p>15 Q Mr. Troupis, before we get -- before we get to 96,</p> <p>16 I want to go back to the claim of some of the</p> <p>17 plaintiffs in this case that the Act 43</p> <p>18 intentionally discriminates against the Hispanic</p> <p>19 community. Would it have been a prudent -- strike</p> <p>20 that. Is District 8 a predominantly Democratic or</p> <p>21 Republican district?</p> <p>22 A Democrat.</p> <p>23 Q Substantially Democratic district?</p> <p>24 A I would probably use the term prohibitively</p> <p>25 Democratic.</p>

<p style="text-align: right;">Page 238</p> <p>1 Q So the Democrats have held District 8 for a long 2 time? 3 A Yes. Well, they don't hold the district, so to 4 speak, but that part of the city of Milwaukee you 5 know, has consistently voted Democrat in a variety 6 of different elections. We haven't had elections 7 in the new 8, so -- 8 Q With respect to the allegation by the plaintiffs 9 that the map drawers were trying to intentionally 10 discriminate against the Hispanic community, would 11 that have made sense from the perspective of the 12 Republican leadership? 13 MR. EARLE: I'm going to -- that's 14 leading. 15 MR. POLAND: Join in the objection and 16 foundation too. 17 BY MR. HODAN: 18 Q The question was would it have made sense? 19 MR. POLAND: Same objections. 20 THE WITNESS: Not from the perspective 21 of a legal matter from my perspective. 22 BY MR. HODAN: 23 Q And why not? 24 MR. POLAND: Same objections, object 25 to form and foundation.</p>	<p style="text-align: right;">Page 240</p> <p>1 A Certainly it would and I would never been a part 2 to it. 3 Q Now, I'd ask you to look at -- 4 MR. EARLE: You wanted 96? 5 BY MR. HODAN: 6 Q -- Exhibit 96, please. 7 MR. DAUGHTERY: He's got it. 8 BY MR. HODAN: 9 Q You were asked some questions by I believe 10 Attorney Earle earlier -- 11 A Yes. 12 Q I don't know if -- my text is on the second and 13 third page on the WisPolitics. This is a press 14 release. Mine seems to be highlighted. Do you 15 see the highlighted text? 16 A Yes, I do. 17 Q Okay. And I believe the highlighted text, I want 18 to ask you about this just to see what you know. 19 The highlighted text reads finally, this appears 20 to be a press release from Voces de la Frontera; 21 is that correct? 22 A Yes. 23 Q And this has to do with the city of Milwaukee 24 redistricting? 25 A That was my understanding.</p>
<p style="text-align: right;">Page 239</p> <p>1 MR. EARLE: Join. 2 THE WITNESS: Well, because the -- as 3 I explained a little bit earlier, the process by 4 which these -- we comply with the Voting Rights 5 Act and draw these involve a series of steps, none 6 of which, all of which could be followed 7 without -- without affecting any kind of a 8 partisan outcome, but from my standpoint I'm 9 saying as a lawyer we were obligated to look at 10 those matters and do the best we could in order to 11 comply with the Voting Rights Act. No client, at 12 least from my perspective, would hire me in order 13 to come up with a way of not complying with the 14 law. We were -- that was our job. 15 BY MR. HODAN: 16 Q And if you had done that, if you had been out to 17 intentionally discriminate against the Hispanic 18 community, would that have increased the odds of a 19 court challenge being a successful court 20 challenge? 21 MR. EARLE: I'm going to object to 22 form of the question. 23 MR. POLAND: Same objection. 24 BY MR. HODAN: 25 Q Go ahead and answer.</p>	<p style="text-align: right;">Page 241</p> <p>1 Q And the highlighted section reads: Finally, in 2 order to more effectively increase the 3 possibilities of Latinos being elected in the 4 proposed 8th and 12th, their voting age 5 populations need to be increased respectively from 6 62.3 percent in the former and 67.6 percent in the 7 latter to at least 70 percent. This can be done 8 with minor changes as there are a number of 9 adjacent boards that have majority of Hispanic 10 voting age populations. 11 My question to you is do you know if 12 the city of Milwaukee when it redistricted the 13 aldermanic district actually went along with what 14 Voces de la Frontera asked for? 15 MR. POLAND: Object to the form of the 16 question. 17 MR. EARLE: Object to the form as 18 well. 19 THE WITNESS: I do not know. 20 BY MR. HODAN: 21 Q Would it surprise you to learn that the city of 22 Milwaukee didn't? 23 MR. EARLE: Object to the form of the 24 question. 25 MR. POLAND: Join.</p>

<p style="text-align: right;">Page 242</p> <p>1 THE WITNESS: As I reflected --</p> <p>2 MR. HODAN: I'll withdraw the</p> <p>3 question.</p> <p>4 BY MR. HODAN:</p> <p>5 Q I'd like to look at the first page of Exhibit 96.</p> <p>6 You wrote here the problem here is that the group</p> <p>7 wants 70 percent. What you were referring to what</p> <p>8 Voces de la Frontera wanted in the aldermanic</p> <p>9 districts?</p> <p>10 A Yes, that's exactly what I was referring to.</p> <p>11 Q And what's the problem that you thought that</p> <p>12 created?</p> <p>13 A The next sentence said it's classic overkill.</p> <p>14 Q And what did you mean by that?</p> <p>15 A It's simply not necessary for the Latino or</p> <p>16 Hispanic community here to have that level of a</p> <p>17 percentage of voting age population in order to</p> <p>18 elect a representative of their choice, and -- and</p> <p>19 it's a bad idea. It's a bad idea because you're</p> <p>20 wasting the opportunity to elect, for the</p> <p>21 community to elect more representatives of choice</p> <p>22 if you -- if you pack in that level of that --</p> <p>23 those kind of numbers. That's what I was</p> <p>24 referring to.</p> <p>25 Q And I take it you were referring in the context of</p>	<p style="text-align: right;">Page 244</p> <p>1 minority citizens being packed into an area that</p> <p>2 they don't -- that are unneeded. So that's --</p> <p>3 that's what I was trying to get across and that in</p> <p>4 a very classic sense this is the way much of the</p> <p>5 modern Voting Rights Act and redistricting got</p> <p>6 started is that in large urban areas in particular</p> <p>7 and in the South they simply packed in large</p> <p>8 numbers of minorities and thus they would lose</p> <p>9 their effective representation because they could</p> <p>10 have been in two or three different districts and</p> <p>11 now you're locked into one.</p> <p>12 Q You were involved in the 1990 redistricting in</p> <p>13 Milwaukee; correct?</p> <p>14 A That's correct.</p> <p>15 Q Can you tell us what the fight was in connection</p> <p>16 with the African-American districts that was at</p> <p>17 issue there?</p> <p>18 A Well, my, again, my recollection is that the --</p> <p>19 the districts in Milwaukee could be drawn with</p> <p>20 nearly 100 percent African-American population and</p> <p>21 as a consequence you could have -- limit the</p> <p>22 number of African-American representatives in</p> <p>23 Milwaukee. So we spent a great deal of time and</p> <p>24 efforts in that litigation and the court file, you</p> <p>25 know, shows it, that trying to make sure that you</p>
<p style="text-align: right;">Page 243</p> <p>1 Districts 8 and 9 in that regard.</p> <p>2 A That's correct.</p> <p>3 Q So you didn't -- let me ask you. So those</p> <p>4 comments were directed to your view about a</p> <p>5 problem that those numbers would create for</p> <p>6 District 8 and 9?</p> <p>7 MR. POLAND: Object to the form.</p> <p>8 MR. EARLE: Yes, more than super</p> <p>9 leading.</p> <p>10 BY MR. HODAN:</p> <p>11 Q I'm just trying to understand what --</p> <p>12 MR. EARLE: There's not an exception</p> <p>13 for leading for your failing to understand.</p> <p>14 MR. HODAN: Thank you, counsel.</p> <p>15 BY MR. HODAN:</p> <p>16 Q Let me rephrase. Your -- the problem you were</p> <p>17 referring to had to do with those numbers in</p> <p>18 Districts 8 and 9.</p> <p>19 A That's correct.</p> <p>20 Q And you continued, I'm already very worried about</p> <p>21 the 65 percent. What did you mean by that?</p> <p>22 A Well, you need to understand or appreciate, this</p> <p>23 is voting age population. I mean, the percentage</p> <p>24 of actual population is higher than this. And so</p> <p>25 you're talking about an enormous number of</p>	<p style="text-align: right;">Page 245</p> <p>1 didn't pack those numbers so large that the</p> <p>2 African-American population would end up, in</p> <p>3 effect, underrepresented in the city of Milwaukee.</p> <p>4 Q So in that regard, were you successful?</p> <p>5 A Yes.</p> <p>6 Q And to your knowledge did those districts perform</p> <p>7 as -- as you had predicted?</p> <p>8 A Yes.</p> <p>9 MR. EARLE: Object to the form of the</p> <p>10 last question.</p> <p>11 BY MR. HODAN:</p> <p>12 Q In 2000 you were involved in the Wisconsin</p> <p>13 redistricting and there was a dispute over the</p> <p>14 African-American districts; correct?</p> <p>15 A Yes, there was.</p> <p>16 Q And do you recall what that dispute was?</p> <p>17 A It was essentially the same problem as we faced in</p> <p>18 the 1990's, that the African-American population</p> <p>19 had grown dramatically in the districts that had</p> <p>20 previously been drawn by the Western District</p> <p>21 federal court in the earlier cycle. So the</p> <p>22 question that map drawing faced in that situation</p> <p>23 was how ought those districts be configured so as</p> <p>24 to maximize the opportunity for the</p> <p>25 African-American population to elect</p>

<p style="text-align: right;">Page 246</p> <p>1 representatives of their choice. And that meant 2 necessarily that certain districts had to be 3 reconfigured in order to reduce that total 4 African-American population to the best you could. 5 It's a very concentrated population and so in some 6 respects it's rather difficult. 7 Q And were you successful in convincing the court to 8 draw the number of African-American districts in 9 2000? 10 MR. POLAND: Object to the form. 11 BY MR. HODAN: 12 Q You can go ahead and answer. 13 A I believe we were and I believe, but I wouldn't 14 want to be the person to say that. I think 15 Professor Grofman is the one who addressed that 16 directly with the Court. 17 Q In both the 1990's and 2000 litigation, was there 18 testimony from individual legislators in the 19 African-American districts saying that they needed 20 higher percentages in order to be reelected? 21 MR. POLAND: I'm going to object to 22 form and actually this goes way beyond the scope. 23 MR. EARLE: I move to strike the 24 whole -- the whole line of questions as way beyond 25 the scope. And just so it's clear, the Court</p>	<p style="text-align: right;">Page 248</p> <p>1 counsel, please. I gave you an opportunity to 2 make your record. 3 MR. EARLE: And I'm very appreciative 4 of that. 5 MR. HODAN: Thank you. He was not 6 disclosed in the pretrial report by the plaintiffs 7 as a witness. It was only after the court 8 indicated that his deposition could be taken today 9 that we learned that he was going to be a witness 10 in the case and so we're entitled to ask him 11 questions regarding his knowledge and we'll move 12 on. 13 MR. EARLE: Well, to complete the 14 record, it was disclosed at the Rule 26 disclosure 15 and the decision to call him as a witness was made 16 after review of the latest batch of previously 17 undisclosed e-mails. That came from the legal 18 team on Friday, the 17th. 19 BY MR. HODAN: 20 Q You were asked some questions about the 21 configuration of Districts 8 and 9. Do you know 22 how the aldermanic districts in the city of 23 Milwaukee are configured within Assembly 24 Districts 8 and 9? 25 A Not directly, no.</p>
<p style="text-align: right;">Page 247</p> <p>1 requested that we consider the submission of 2 Mr. Troupis' testimony by transcript to the court, 3 and the same request was made by counsel for 4 Mr. Troupis and I agreed to try to do that. 5 And so at this point you're way beyond 6 the scope and he's not your witness. He is our 7 witness. We identified him as a witness and there 8 was a motion to the court. You did not object to 9 us subpoenaing him to the trial as a witness, and 10 it was Judge Stadtmueller's request that you do 11 his deposition first and recommended that we then 12 submit the deposition in lieu of live testimony. 13 So under those circumstances you are so far astray 14 from the scope of the examination and I object and 15 move to strike the whole line of questioning. 16 MR. POLAND: I also believe you're 17 trying to use him as an expert witness in 18 redistricting now and he's an undisclosed expert. 19 He can't testify as an expert. He's a fact 20 witness. That's what he's here for. 21 MR. HODAN: Mr. Troupis was not named 22 by the plaintiffs in the pretrial report as a 23 witness, so I -- 24 MR. EARLE: He was named in the -- 25 MR. HODAN: This is my record to make,</p>	<p style="text-align: right;">Page 249</p> <p>1 Q It was suggested during questioning of you that 2 somehow you should have reached out to more people 3 in the Hispanic community. I believe there are 72 4 counties in the state. Did you talk to someone in 5 every county about the redistricting process? 6 A No. 7 MR. POLAND: Object to the form. 8 MR. EARLE: Join. 9 THE WITNESS: No, of course not. 10 BY MR. HODAN: 11 Q I believe there are other over a thousand 12 municipalities in the state. Did you talk to 13 someone in each of municipalities about their 14 various concerns? 15 A No, of course not. 16 Q You were asked some questions about MALDEF? 17 A Yes. 18 Q Do you recall when it was that you contacted 19 MALDEF? 20 A My best recollection is that I was first given 21 Nina Perales' name in May of last year, and that 22 I -- I placed a call to her first and then was 23 referred to Elisa Alfonso in the Chicago office 24 and called her in early June. 25 Q And why did you reach out to MALDEF?</p>

<p style="text-align: right;">Page 250</p> <p>1 A Because the issue had been -- because there was an 2 issue raised with regard to the Latino districts 3 in Milwaukee, and MALDEF is -- in my view was the 4 premier defense, the premier fund or premier group 5 of lawyers working on behalf of redistricting 6 around the country on behalf of the various 7 Hispanic populations. They've been involved in a 8 number of other legal battles over the years, 9 including Illinois. So, you know, and so when 10 Dr. or Professor Gaddie suggested I give them a 11 call, I did. 12 Q Okay. Were you seeking their opinion about 13 Districts 8 and 9? 14 A Yes. 15 MR. EARLE: Form. 16 THE WITNESS: Yes. 17 BY MR. HODAN: 18 Q Were you seeking their opinion -- pardon me. Were 19 you seeking -- tell me again, who at MALDEF did 20 you speak to? 21 A Elisa Alfonso, I believe is her name. I met her 22 for the first time yesterday. 23 Q Did you talk to her on the phone? 24 A Yes. 25 Q All right. Did you elicit her opinion about the</p>	<p style="text-align: right;">Page 252</p> <p>1 opinion? 2 A Yes. I mean, throughout this process I asked her 3 and she had others on the phone on occasion that I 4 would ask as well. 5 Q Okay. And had you met her before? 6 A No, no, I had not. 7 Q Did you eventually get -- did she get back to you 8 at all after you sent information to her? 9 A Yes, she did. 10 Q Okay. And what did she say when she got back to 11 you? 12 A She indicated to me that when they looked at the 13 numbers to try to determine the most effective 14 districts, that for the community that -- 15 MR. EARLE: I'm going to object to the 16 questions and the answer on hearsay grounds. 17 BY MR. HODAN: 18 Q Okay. You can go ahead and answer. 19 A Okay. That they believed that a configuration of 20 60-53, 60-54 voting age population was -- was the 21 best alternative. So that's what she indicated to 22 us and she sent us actually sent maps to that 23 effect. 24 MR. EARLE: I'm going to object and 25 move to strike.</p>
<p style="text-align: right;">Page 251</p> <p>1 configuration of District No. 8? 2 A Well, not initially. We -- we initially, I 3 offered to provide her with all of the information 4 regarding Milwaukee and the south side of 5 Milwaukee that we had with the expectation that 6 she could review it, MALDEF could review it and 7 decide what type of district, what kind of 8 district they believe would be most effective in 9 representing the community. And so that's -- so 10 initially I provided her with information. 11 Q Okay. And do you recall what information you 12 provided her with? 13 A We provided her all of the information we had on 14 that area from the demographic or the census data 15 by census tract through the -- through that entire 16 area. She was very familiar with it because they 17 were involved in Illinois using the same census 18 date. So she may have just asked me for it or I 19 said this is what we have, but either way, it's 20 the basic building block for redistricting. 21 Q During your call did she indicate whether she 22 would review the information that you looked at, 23 that you provided her? 24 A Yes. 25 Q And did she tell you -- did you ask her for her</p>	<p style="text-align: right;">Page 253</p> <p>1 MR. POLAND: Join. 2 BY MR. HODAN: 3 Q Did you ever memorialize -- strike that. After 4 that conversation did you ever mention anything 5 about -- did you mention to anyone else that 6 conversation? 7 A Yes. 8 Q Okay. And who would you have talked to? 9 A Either Tad or Adam as well as Eric and others on 10 our team. 11 Q I'd ask you to look at Exhibit 1166. 12 A Yes, I looked at it. 13 Q Okay. 14 MR. DAUGHTERY: Just hold on one 15 second. I'm going to check to make sure this 16 isn't one of the ones -- you're certain this is 17 not one of the ones that's off? 18 MR. HODAN: This is JRT87, if you'll 19 just look at it and just confirm. 20 MR. DAUGHTERY: JRT87. Okay. Okay, 21 we're fine, thanks. 22 MR. HODAN: And you have a copy of 23 JRT87? 24 MR. EARLE: 87 is not on the list. 25 MR. DAUGHTERY: It can be talked</p>

<p style="text-align: right;">Page 254</p> <p>1 about.</p> <p>2 MR. EARLE: It can be talked about?</p> <p>3 MR. DAUGHTERY: Yes.</p> <p>4 BY MR. HODAN:</p> <p>5 Q Can you tell me what -- is this is an e-mail that</p> <p>6 you sent?</p> <p>7 A Yes. There's actually -- yes, it is.</p> <p>8 Q There are a number of e-mails.</p> <p>9 A Yeah, that's what I was trying to figure out.</p> <p>10 Sometimes I'm a little obtuse in the way I write</p> <p>11 these things.</p> <p>12 Q That's all right. When we have the modern day</p> <p>13 string e-mails, sometimes it's difficult to figure</p> <p>14 out which is which.</p> <p>15 A Right. It appears to be two separate e-mails.</p> <p>16 Q Well, let's talk about the one on the bottom. Is</p> <p>17 that an e-mail that you drafted on July 11, 2011</p> <p>18 at 2:24 p.m.?</p> <p>19 A Yes, it is.</p> <p>20 Q And who did you draft it to?</p> <p>21 A I was writing to Tad and Adam. As I reflected a</p> <p>22 minute ago, I thought I had communicated with them</p> <p>23 about this issue.</p> <p>24 Q In the first line appears to indicate that you</p> <p>25 spoke to the attorneys at MALDEF.</p>	<p style="text-align: right;">Page 256</p> <p>1 MR. EARLE: Form.</p> <p>2 BY MR. HODAN:</p> <p>3 Q And I believe you testified earlier that the</p> <p>4 Hispanic voting age population under Act 43 in</p> <p>5 District 9 is 54 percent; correct?</p> <p>6 A Yes.</p> <p>7 Q Okay. And is that slightly -- is that higher or</p> <p>8 lower than what MALDEF had proposed?</p> <p>9 A We were -- it's slightly higher.</p> <p>10 Q So that would have -- fair to say that would have</p> <p>11 been an improvement over what MALDEF had proposed?</p> <p>12 A Yes.</p> <p>13 MR. EARLE: Object to the form for the</p> <p>14 last question.</p> <p>15 BY MR. HODAN:</p> <p>16 Q Well, do you believe that that's an improvement</p> <p>17 over what MALDEF proposed?</p> <p>18 A Yes, I do.</p> <p>19 Q Now, you were also asked about whether anyone</p> <p>20 reached out to the Milwaukee community and there</p> <p>21 was some suggestion that no one in this process</p> <p>22 had reached out to the Milwaukee community?</p> <p>23 MR. EARLE: I'm going to object to the</p> <p>24 characterization of the testimony and the answer</p> <p>25 to the question. If there was a suggestion, it</p>
<p style="text-align: right;">Page 255</p> <p>1 A Yes.</p> <p>2 Q Who were you referring to when you said attorneys?</p> <p>3 A Elise and others. I'm trying to think of the</p> <p>4 other person's name. I was certainly referring to</p> <p>5 her that I talked to.</p> <p>6 Q And then it reads they have been working with the</p> <p>7 maps and would like to propose a middle ground</p> <p>8 where 8 has 65 percent total pop, 60 percent vap,</p> <p>9 and 9 has 60 percent total pop, 53 percent vap,</p> <p>10 and a north district, south district</p> <p>11 configuration. What did you mean by that?</p> <p>12 A Well, this is referring to the map that they had</p> <p>13 sent us at this point in time and I think there</p> <p>14 must be out there somewhere and these were the</p> <p>15 percentages that they had thought would be most</p> <p>16 effective for the community and they were making</p> <p>17 this proposal in response to the specifics that</p> <p>18 I had provided to them the month before.</p> <p>19 Q And how does the -- I believe you said before that</p> <p>20 the Hispanic voting age population in District 8</p> <p>21 under Act 43 is 60 percent; correct?</p> <p>22 A Yes.</p> <p>23 Q And that is the same percentage that, is that the</p> <p>24 same percentage that MALDEF was suggesting?</p> <p>25 A Yes, it is.</p>	<p style="text-align: right;">Page 257</p> <p>1 was by the deponent in answer to the questions.</p> <p>2 BY MR. HODAN:</p> <p>3 Q Do you recall whether anyone on your team reached</p> <p>4 out to anyone in Milwaukee regarding the assembly</p> <p>5 Districts 8 or 9?</p> <p>6 A Yes.</p> <p>7 Q And anyone in the Milwaukee community?</p> <p>8 A Yes, they did.</p> <p>9 Q And who did they reach out to?</p> <p>10 A Well, I think we talked a little bit ago. First</p> <p>11 of all, I believe that I reached out to those,</p> <p>12 that community fairly directly through MALDEF and</p> <p>13 this, this e-mail actually reflects that and from</p> <p>14 the beginning I had indicated that they --</p> <p>15 certainly that they should do that if they wished</p> <p>16 and if they believed it was appropriate and that I</p> <p>17 assumed that they would. In addition, as the</p> <p>18 hearing ultimately reflects, there were a number</p> <p>19 of, people, Zeus Rodriguez, Manny Perez, and Bob</p> <p>20 Spindel and others that had been at least</p> <p>21 contacted by the team for the purposes of the</p> <p>22 hearing.</p> <p>23 Q Now, during the redistricting process had you ever</p> <p>24 heard of plaintiffs Voces de la Frontera?</p> <p>25 A As I think I told Peter just a little bit ago, my</p>

<p style="text-align: right;">Page 258</p> <p>1 first knowledge of it simply comes from that 2 e-mail we looked at a minute which had it attached 3 as a press release. That would have been the only 4 knowledge I have. 5 Q So the second paragraph of your July 11, 2011 6 e-mail to Tad and Adam, you indicate they are also 7 reaching out today to Milwaukee connections in the 8 Latino community, so this will likely become a 9 more dynamic process. When you say they, who are 10 you referring to? 11 A MALDEF. 12 Q Do you know if they reached out to the -- their 13 Milwaukee connections? 14 A I only know what they told me. 15 Q And what did they tell you? 16 MR. EARLE: Object to hearsay. 17 MR. POLAND: Join in the objection. 18 BY MR. HODAN: 19 Q What did they tell you? 20 A That they had reached out and they had spoken to 21 members of the Latino community in Milwaukee. 22 Q And did they tell you -- 23 MR. EARLE: Move to strike. 24 THE WITNESS: That they were 25 supportive of this proposal that they were making,</p>	<p style="text-align: right;">Page 260</p> <p>1 BY MR. HODAN: 2 Q You were asked about experts that you were trying 3 to reach out to. Did you ever reach out to 4 Professor Mayer? 5 A Yes. 6 Q And when was that? 7 A Probably e-mails to this effect. I believe it was 8 in June of 2011. 9 Q And did he ever indicate to you whether he would 10 be willing to testify on behalf of the maps? 11 MR. EARLE: Object to form of that 12 question. On behalf of the maps in June? 13 BY MR. HODAN: 14 Q Did he ever indicate that he would be willing to 15 testify to defend the maps? 16 MR. EARLE: Same objection. 17 THE WITNESS: Yes. 18 BY MR. HODAN: 19 Q And what did he say to you? 20 A That he was -- 21 MR. EARLE: I'm going to object on the 22 grounds of foundation. There's not even any 23 foundation that any maps existed in June that 24 would be defended. 25 MR. POLAND: It calls for hearsay.</p>
<p style="text-align: right;">Page 259</p> <p>1 that MALDEF was making. 2 MR. EARLE: Object to the hearsay and 3 move to strike. 4 MR. POLAND: Join in the objections. 5 BY MR. HODAN: 6 Q At any time during this entire process did anyone 7 from MALDEF ever tell you that they didn't approve 8 of the final maps? 9 MR. EARLE: I'm going to object. 10 You're asking him for a lengthy hearsay and you're 11 leading as well, and I'll move to strike his 12 answer as soon as it comes in. 13 THE WITNESS: Well, let's try another. 14 The -- not until the day of the hearing did I hear 15 anything from MALDEF that suggested that our -- 16 that the proposal that was being suggested, the 17 60-54 proposal, was -- had any dissent at all. 18 BY MR. HODAN: 19 Q And what did you hear? 20 MR. POLAND: Objection. 21 MR. EARLE: Same objection. 22 MR. HODAN: I'll withdraw. 23 MR. EARLE: Hearsay line and I'll move 24 to strike the answer. 25 MR. HODAN: I'll withdraw.</p>	<p style="text-align: right;">Page 261</p> <p>1 MR. EARLE: And it calls for hearsay 2 as well. 3 MR. HODAN: You can always ask your 4 expert at trial and we will. 5 MR. EARLE: He's being deposed right 6 now. 7 BY MR. HODAN: 8 Q Can you tell us what he said? 9 MR. EARLE: I'm going to -- hearsay 10 objection, move to strike. 11 MR. POLAND: Join. 12 BY MR. HODAN: 13 Q You can go ahead. 14 A I believe there are maybe e-mails to this fact 15 but -- that memorialize this, but at the time it 16 was my understanding he was prepared to testify on 17 behalf of the maps. 18 Q You were asked before some questions about the 19 process, and the -- the leadership and how they 20 would have access to the entire map but the other 21 legislators would not. 22 A Yes. 23 Q Why was that? 24 MR. EARLE: Form. 25 THE WITNESS: I thought I explained it</p>

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<p>1 a little bit earlier that traditionally that's the</p> <p>2 best way to avoid members of the legislature in --</p> <p>3 from themselves from dealing with matters that</p> <p>4 frankly didn't affect them and it is commonplace</p> <p>5 at the legislature that, you know, folks will,</p> <p>6 in fact, think about some other part of the state</p> <p>7 when it would thus become an impossible process</p> <p>8 because individual legislators would not focus on</p> <p>9 that -- their particular issues on which they knew</p> <p>10 what was needed or not needed.</p> <p>11 And so over time the process that</p> <p>12 evolved that here in Wisconsin in the legislature,</p> <p>13 I mean, again, this is not just today in the</p> <p>14 cycle, is that you would traditionally not share</p> <p>15 the entire map until all members had been</p> <p>16 consulted on their areas of their districts and so</p> <p>17 that they could have a complete map only at the</p> <p>18 end of the process. It was the only practical way</p> <p>19 of getting it done.</p> <p>20 BY MR. HODAN:</p> <p>21 Q You were also asked questions about the process of</p> <p>22 drawing the map. Do you have any familiarity with</p> <p>23 the legislative process in terms of how bills are</p> <p>24 drafted?</p> <p>25 A Yes.</p>	<p>1 questions at this time.</p> <p>2 MR. EARLE: I have just a few.</p> <p>3 MR. POLAND: Do you want me to go</p> <p>4 first? I have just a couple.</p> <p>5 MR. HODAN: It's only 10:30, so</p> <p>6 whoever wants to go is free to go.</p> <p>7 MR. POLAND: I don't have much. I do</p> <p>8 want to mark this as an Exhibit 233. This is a</p> <p>9 document --</p> <p>10 THE WITNESS: Let the record reflect</p> <p>11 to Judge Stadtmueller that Troupis has sat here</p> <p>12 throughout and never complained.</p> <p>13 MR. DAUGHTERY: And just to be clear</p> <p>14 too, I think we're past the seven hours but in any</p> <p>15 event --</p> <p>16 MR. POLAND: This is a document that</p> <p>17 is on the list. I just need to make a record,</p> <p>18 okay?</p> <p>19 MR. DAUGHTERY: Let me --</p> <p>20 MR. POLAND: I just need to make a</p> <p>21 record.</p> <p>22 EXAMINATION</p> <p>23 (Exhibit No. 233 was marked for</p> <p>24 identification.)</p> <p>25</p>
Page 263	Page 265
<p>1 Q Okay. Is it unusual in the legislative process</p> <p>2 for an individual member or members to draft bills</p> <p>3 and keep them secret before they share them with</p> <p>4 the public?</p> <p>5 A Oh, no.</p> <p>6 MR. EARLE: Object to form.</p> <p>7 BY MR. HODAN:</p> <p>8 Q You can go ahead and answer.</p> <p>9 A No, that's the normal process.</p> <p>10 Q Nothing unusual about that?</p> <p>11 A No, nothing.</p> <p>12 MR. EARLE: Leading.</p> <p>13 BY MR. HODAN:</p> <p>14 Q Is there anything unusual about that?</p> <p>15 A No. It's the normal process.</p> <p>16 Q Was that -- were you following that process?</p> <p>17 A Yes.</p> <p>18 MR. EARLE: Leading.</p> <p>19 BY MR. HODAN:</p> <p>20 Q How would you compare your process with the normal</p> <p>21 legislative process in terms of not disclosing the</p> <p>22 maps until you were ready to go public with them?</p> <p>23 A I would view that as the ordinary process by which</p> <p>24 this would redistricting would go forward.</p> <p>25 MR. HODAN: I have no further</p>	<p>1 BY MR. POLAND:</p> <p>2 Q Mr. Troupis, the court reporter has handed you a</p> <p>3 document that's marked as Exhibit 233. I'll</p> <p>4 represent for the record that it is Bate stamped</p> <p>5 MBF000218. This is a document, as I've informed</p> <p>6 your counsel, that is on the record or is on the</p> <p>7 list of documents that Judge Dow, I believe, had</p> <p>8 indicated we're not to ask about.</p> <p>9 MR. DAUGHTERY: This is Bate stamped</p> <p>10 JRT81 amongst the submissions we made yesterday,</p> <p>11 guess it was, and this morning the Court</p> <p>12 instructed counsel not to ask questions about it.</p> <p>13 MR. POLAND: Don, I'm sorry, JRT what?</p> <p>14 MR. DAUGHTERY: 81.</p> <p>15 BY MR. POLAND:</p> <p>16 Q Mr. Troupis, you recall that you were asked a</p> <p>17 series of questions by Mr. Hodan about</p> <p>18 conversations you had with Dr. Mayer; correct?</p> <p>19 A I recall him asking some questions about</p> <p>20 Dr. Mayer, yes.</p> <p>21 Q And you indicated you had conversations with</p> <p>22 Dr. Mayer about potentially coming to work as an</p> <p>23 expert in the redistricting process; correct?</p> <p>24 A Whatever Mr. Hodan asked, I answered.</p> <p>25 Q You said that you thought that was reflected in</p>

<p style="text-align: right;">Page 266</p> <p>1 the series of e-mails, correct, the conversations</p> <p>2 you had with Dr. Mayer?</p> <p>3 A If that's what I said, that's what I said. The</p> <p>4 record is what it is.</p> <p>5 Q Okay. So I believe that Mr. Hodan has opened it</p> <p>6 up by answering the questions that Mr. Troupis has</p> <p>7 opened up, at least in the very first part of</p> <p>8 Exhibit 233, for cross-examination.</p> <p>9 MR. DAUGHTERY: He's not going to</p> <p>10 answer.</p> <p>11 MR. POLAND: I need to ask the</p> <p>12 question. I know you have the instruction. I'm</p> <p>13 just making my record. That's my -- that's my --</p> <p>14 that's my --</p> <p>15 MR. HODAN: And let me make a record.</p> <p>16 I didn't ask him anything about this document and</p> <p>17 I don't -- I don't believe Mr. Mayer was ever</p> <p>18 retained by Mr. Troupis.</p> <p>19 THE WITNESS: Let me make my record,</p> <p>20 which is that it was not my intention in answering</p> <p>21 any question here to open up any matter that is</p> <p>22 otherwise attorney-client privilege and if I</p> <p>23 inadvertently did so, I -- I apologize to</p> <p>24 everybody concerned and indicate that it was not</p> <p>25 my intention and I certainly would not do that in</p>	<p style="text-align: right;">Page 268</p> <p>1 strike and agree to strike all questions relating</p> <p>2 to Mayer.</p> <p>3 MR. POLAND: That's fine.</p> <p>4 MR. HODAN: And that should solve the</p> <p>5 issue.</p> <p>6 MR. POLAND: That's fine and I</p> <p>7 withdraw the question.</p> <p>8 MR. DAUGHTERY: Actually could we just</p> <p>9 tear this up because I don't know what's going to</p> <p>10 happen in regard to this being bound and who's</p> <p>11 going to get it.</p> <p>12 MR. HODAN: Let the record reflect</p> <p>13 that we have reached an agreement where all</p> <p>14 questions related to Dr. Ken Mayer that were asked</p> <p>15 are withdrawn and stricken from the record by</p> <p>16 agreement of counsel so that there isn't any</p> <p>17 confusion or any disagreement about the scope or</p> <p>18 of waiver.</p> <p>19 THE WITNESS: Thank you. I appreciate</p> <p>20 that.</p> <p>21 THE VIDEOGRAPHER: Excuse me. Two</p> <p>22 minutes of disk.</p> <p>23 MR. POLAND: I'm ready.</p> <p>24 MR. EARLE: Are you done?</p> <p>25 MR. POLAND: That's it, I'm done.</p>
<p style="text-align: right;">Page 267</p> <p>1 considering my ethical obligation not to.</p> <p>2 MR. DAUGHTERY: And to be clear too,</p> <p>3 the Court's order this morning pursuant to the</p> <p>4 Supreme Court rules is in regards to documents</p> <p>5 other than these ones that we've identified as not</p> <p>6 being able to talk about. So you're not relieved</p> <p>7 from that ethical obligation with regard to --</p> <p>8 you're not relieved from your ethical obligations</p> <p>9 with regard to this by the Supreme Court rule.</p> <p>10 THE WITNESS: I certainly would not</p> <p>11 comment. I just want to make the record clear</p> <p>12 that if I inadvertently -- it was inadvertent and</p> <p>13 I take it back.</p> <p>14 BY MR. POLAND:</p> <p>15 Q Mr. Troupis, I'd like to ask you a question about</p> <p>16 the first sentence -- the first three sentences of</p> <p>17 Exhibit No. 233. Will you answer questions about</p> <p>18 the first three sentences of Exhibit 233?</p> <p>19 MR. DAUGHTERY: I'm instructing him</p> <p>20 not to answer.</p> <p>21 BY MR. POLAND:</p> <p>22 Q Mr. Troupis --</p> <p>23 A And I will follow my attorney's advice.</p> <p>24 MR. HODAN: Let me make a suggestion.</p> <p>25 So that we don't create -- I will withdraw and</p>	<p style="text-align: right;">Page 269</p> <p>1 MR. EARLE: I might be able to get in</p> <p>2 in two minutes.</p> <p>3 EXAMINATION</p> <p>4 BY MR. EARLE:</p> <p>5 Q 96, you have it in front of you?</p> <p>6 A Yes.</p> <p>7 Q You said earlier you had mentioned that you didn't</p> <p>8 do a full-blown Jingles type analysis but you</p> <p>9 implied that you had considered those types of</p> <p>10 criteria?</p> <p>11 A Oh, I considered all those factors, that's</p> <p>12 correct.</p> <p>13 Q Okay. So did you consider what the differential</p> <p>14 and turnout rates were between the higher level of</p> <p>15 concentrations of Latinos in the northern parts of</p> <p>16 the 8th assembly district as you configured it and</p> <p>17 the lesser concentrations of Latinos in the lower</p> <p>18 part of the 8th assembly district as you</p> <p>19 configured it?</p> <p>20 MR. HODAN: Object to form.</p> <p>21 MR. EARLE: I'll rephrase it.</p> <p>22 BY MR. EARLE:</p> <p>23 Q When you drew the 9th -- the 8th assembly</p> <p>24 district, you will agree that the northern part of</p> <p>25 the district had higher concentrations of Latinos</p>

<p style="text-align: right;">Page 270</p> <p>1 than did the lower part of the district; correct?</p> <p>2 A I don't know that.</p> <p>3 MR. HODAN: Lack of foundation.</p> <p>4 THE WITNESS: I'm sorry, I just don't</p> <p>5 know that.</p> <p>6 BY MR. EARLE:</p> <p>7 Q Did you consider the turnout rate differentials</p> <p>8 between those areas of the districts in the Latino</p> <p>9 community that had higher levels of Latino</p> <p>10 concentrations as compared to the areas that had</p> <p>11 lower levels of Latino concentrations?</p> <p>12 MR. HODAN: Object to the form.</p> <p>13 MR. DAUGHTERY: To be clear, you,</p> <p>14 you're talking about him personally?</p> <p>15 MR. EARLE: Yes, that was the</p> <p>16 question.</p> <p>17 THE WITNESS: I don't recall.</p> <p>18 BY MR. EARLE:</p> <p>19 Q Did any member of the team consider those factors</p> <p>20 related to turnout differentials between Latinos</p> <p>21 and whites in the 8th assembly district?</p> <p>22 MR. HODAN: Lack of foundation.</p> <p>23 THE WITNESS: Again, I don't recall.</p> <p>24 BY MR. EARLE:</p> <p>25 Q Did you consider whether there was any patterns of</p>	<p style="text-align: right;">Page 272</p> <p>1 MR. EARLE: Yes.</p> <p>2 THE WITNESS: You know, honestly</p> <p>3 I don't. I just don't recall.</p> <p>4 BY MR. EARLE:</p> <p>5 Q Did any member of your team have any understanding</p> <p>6 of the racially polarized voting patterns in the</p> <p>7 southern part of the new 8th?</p> <p>8 A Well, we certainly didn't believe that it -- that</p> <p>9 that would overcome, that that racially polarized</p> <p>10 voting was so great that it would overcome the</p> <p>11 districts that we were creating. So in that sense</p> <p>12 we certainly did.</p> <p>13 Q And you would agree that it turns out that it</p> <p>14 would have overcome that -- strike the question.</p> <p>15 I'm going to withdraw it. Draw your attention to</p> <p>16 1166. Let's stop.</p> <p>17 THE VIDEOGRAPHER: This ends disk</p> <p>18 number three of the video of James R. Troupis on</p> <p>19 February 22, 2012. The time 10:43 p.m.</p> <p>20 (Discussion off the record.)</p> <p>21 THE VIDEOGRAPHER: This is the</p> <p>22 beginning of disk number four of the video</p> <p>23 deposition of James R. Troupis on February 22,</p> <p>24 2012. The time 10:47 p.m.</p> <p>25</p>
<p style="text-align: right;">Page 271</p> <p>1 racially polarized voting between -- amongst the</p> <p>2 white voters in the vicinity of the Latino</p> <p>3 community?</p> <p>4 A Yes, we did look at that.</p> <p>5 Q How did you look at that?</p> <p>6 A Well, we knew the election results from prior</p> <p>7 series of -- a series of prior elections in the</p> <p>8 area, and so we were aware that as an example,</p> <p>9 that the 58th percent district had consistently</p> <p>10 elected a Latino for almost ten years. So we</p> <p>11 certainly from that could infer that there was not</p> <p>12 the kind of polarized voting that one might</p> <p>13 otherwise have thought.</p> <p>14 Q And you're referring to the election of Pedro</p> <p>15 Colon?</p> <p>16 A Yes, and JoCasta.</p> <p>17 Q In the old 8th assembly district?</p> <p>18 A Correct, yes.</p> <p>19 Q Did you have any idea about patterns of racially</p> <p>20 polarized voting in the areas that -- the</p> <p>21 45 percent that you added on to the eastern half</p> <p>22 of the 8th assembly district that came from the</p> <p>23 old 9th?</p> <p>24 MR. HODAN: When you say you, you mean</p> <p>25 him?</p>	<p style="text-align: right;">Page 273</p> <p>1 BY MR. EARLE:</p> <p>2 Q Drawing your attention to Exhibit 1166, Attorney</p> <p>3 Hodan asked you a series of questions about this</p> <p>4 exhibit?</p> <p>5 A Did he? If he did, he did.</p> <p>6 Q In particular I want to draw your attention to the</p> <p>7 configuration comment, north district, south</p> <p>8 district configuration. Do you see that this?</p> <p>9 A Yes.</p> <p>10 Q This is referring to the MALDEF proposal?</p> <p>11 A It appears to be, yes.</p> <p>12 Q And the district submitted by MALDEF had an</p> <p>13 east -- did not have a north-south configuration,</p> <p>14 it had an east-west configuration; is that</p> <p>15 correct?</p> <p>16 A I don't remember and maybe it's because I've been</p> <p>17 sitting here for seven or eight hours. I just</p> <p>18 don't remember. If you have what was attached.</p> <p>19 MR. EARLE: Mark that as an exhibit.</p> <p>20 (Exhibit No. 234 was marked for</p> <p>21 identification.)</p> <p>22 BY MR. EARLE:</p> <p>23 Q Let start at the back page. I'm pretty sure that</p> <p>24 I'm certain that this is not on the list, but --</p> <p>25 MR. DAUGHTERY: Okay. Yes, it's not.</p>

<p style="text-align: right;">Page 274</p> <p>1 Go ahead.</p> <p>2 BY MR. EARLE:</p> <p>3 Q If you start at the last page, if you start with</p> <p>4 the e-mail dated July 11, 2011, at 6:41 p.m.</p> <p>5 A I don't believe it's a complete document. Maybe</p> <p>6 it is. I just --</p> <p>7 Q I remove the hearsay components of it. So this is</p> <p>8 your communication with the folks from MALDEF and</p> <p>9 if you would look at the e-mail --</p> <p>10 MR. HODAN: Excuse me. When you say</p> <p>11 you remove the hearsay --</p> <p>12 MR. EARLE: I remove the communication</p> <p>13 from MALDEF to Mr. Troupis.</p> <p>14 MR. HODAN: From this exhibit?</p> <p>15 MR. EARLE: No, it's not an exhibit.</p> <p>16 I mean, this is an e-mail string starting with Jim</p> <p>17 Troupis' response. He sent an e-mail on July 11,</p> <p>18 6:41, to Elisa Alfonso and Alonzo Rivas.</p> <p>19 MR. HODAN: Counsel, what I'm just</p> <p>20 trying to figure out is what you removed from the</p> <p>21 document.</p> <p>22 MR. EARLE: I didn't remove anything</p> <p>23 from this document. This is a single e-mail.</p> <p>24 MR. HODAN: Okay. I thought you said</p> <p>25 you would remove. Maybe I misheard you.</p>	<p style="text-align: right;">Page 276</p> <p>1 Q Okay, and you communicate to them that you've</p> <p>2 taken their proposal a bit further and you say you</p> <p>3 think your proposal will work a little better than</p> <p>4 theirs; correct?</p> <p>5 A Well, I say exactly what I say.</p> <p>6 Q Okay. Let's go to the first page. That e-mail</p> <p>7 was sent at 6:41 p.m. to MALDEF; correct?</p> <p>8 A It would appear so, yes, sir.</p> <p>9 Q And this is two days before the hearing; right?</p> <p>10 A July 11 is two days before July 13, yes.</p> <p>11 Q Then at 6:42 on the 11th you sent an e-mail to</p> <p>12 Ottman, Foltz and McLeod and Ray Taffora in</p> <p>13 capital letters saying e-mail I sent below to try</p> <p>14 to persuade MALDEF, will see.</p> <p>15 A Yes.</p> <p>16 Q And you're going to try to persuade them to drop</p> <p>17 their east-west configuration in favor of a</p> <p>18 north-south configuration; isn't that true?</p> <p>19 A Had nothing to do with east-west, north-south. It</p> <p>20 had everything to do with the percentages.</p> <p>21 Q In fact, it had to do with the boundaries, didn't</p> <p>22 it?</p> <p>23 A It had to do with the percentages.</p> <p>24 Q Mr. Troupis, it had to do with a ripple effect,</p> <p>25 didn't it?</p>
<p style="text-align: right;">Page 275</p> <p>1 MR. DAUGHTERY: Just for the record,</p> <p>2 I'm not sure, since it's not a complete document,</p> <p>3 I would object on those grounds, but in any event,</p> <p>4 go ahead.</p> <p>5 THE WITNESS: Let me raise what I mean</p> <p>6 by not complete here, folks. I'm looking at the</p> <p>7 second page and it says our alternative and it</p> <p>8 just shows one number and I don't know where the</p> <p>9 other number is.</p> <p>10 BY MR. EARLE:</p> <p>11 Q I'm not going to ask you about the maps that were</p> <p>12 attached. You can see that they had an attachment</p> <p>13 and an alternative and the --</p> <p>14 A The record needs to reflect that I don't think</p> <p>15 this is a complete version of these e-mails.</p> <p>16 I don't know what's been removed. I will testify</p> <p>17 as best I can, but I'm just saying based upon the</p> <p>18 second page, there's pieces of this are missing.</p> <p>19 So go ahead and ask me what you want and I'll do</p> <p>20 the best I can.</p> <p>21 Q All right. Well the date and time, it's Monday,</p> <p>22 July 11 at 6:41 p.m., you responding to Elisa</p> <p>23 Alfonso and Alonzo Rivas after having received</p> <p>24 some -- some proposals from them; correct?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 277</p> <p>1 MR. DAUGHTERY: Asked and answered.</p> <p>2 MR. HODAN: Asked and answered,</p> <p>3 argumentative.</p> <p>4 THE WITNESS: And I will add again</p> <p>5 that the second e-mail, 6:41 p.m., the one you're</p> <p>6 referring to and now trying to imply or infer</p> <p>7 things is not complete. So I mean, it's -- this</p> <p>8 is misleading.</p> <p>9 BY MR. EARLE:</p> <p>10 Q All right. So then the next communication from</p> <p>11 you to the team about MALDEF is the next -- the</p> <p>12 next day on the 12th; correct? That's</p> <p>13 Exhibit 209.</p> <p>14 MR. HODAN: Objection, foundation.</p> <p>15 What exhibit are we looking at?</p> <p>16 MR. DAUGHTERY: Exhibit 209.</p> <p>17 BY MR. EARLE:</p> <p>18 Q And this is where you report that MALDEF is going</p> <p>19 to publicly endorse your map; correct? We've</p> <p>20 already asked you about that.</p> <p>21 A Well, there were e-mails in between this. So</p> <p>22 again, you're -- that -- you're inaccurate because</p> <p>23 there are not complete e-mails and this is not the</p> <p>24 next one in the sequence, this being 209.</p> <p>25 Q What's the next one in the sequence?</p>

<p style="text-align: right;">Page 278</p> <p>1 A Well, as far as I can tell, I don't know because 2 I don't have a complete record here. It looks to 3 me like there's -- I can't even tell looking at 4 234. For example, there's an e-mail at the top of 5 234 that doesn't have any heading at all. Tad, 6 I'm going to go forward. 7 So what I'm saying is I just don't 8 know what was the next in the sequences. I'm not 9 suggesting that this, that is, 209 that I 10 testified to earlier, happened -- I'm just -- your 11 suggestion that somehow this is the next one in 12 time is simply incorrect based on these documents. 13 Q And all of these e-mails culminate in your comment 14 about you succeeding in taking the largest legal 15 fund for the Latino community off the table in any 16 later court battle? 17 MR. HODAN: Objection, asked and 18 answered. I think you started with that question 19 before. 20 THE WITNESS: We discussed that 21 before. 22 BY MR. EARLE: 23 Q But this is the culminating e-mail of that string, 24 isn't that? That's the question. That has not 25 been asked before.</p>	<p style="text-align: right;">Page 280</p> <p>1 STATE OF WISCONSIN) 2 MILWAUKEE COUNTY) SS: 3 I, MICHELLE HAGEN, Registered 4 Professional Reporter and Notary Public in and for the 5 State of Wisconsin, do hereby certify that the deposition 6 of JAMES R. TROUPIS was taken before me at Godfrey & 7 Kahn, S.C., 780 North Water Street, Milwaukee, Wisconsin, 8 on the 22nd day of February, 2012, commencing at 3:34 9 o'clock in the afternoon. 10 That it was taken at the instance of 11 the Plaintiffs upon verbal interrogatories. 12 That said deposition was taken to be 13 used in an action now pending in the United States 14 District Court for the Eastern District of Wisconsin, in 15 which Alvin Baldus, et al., are the Plaintiffs and 16 Members of the Wisconsin Government Accountability Board 17 et al., are the Defendants. 18 A P P E A R A N C E S 19 GODFREY & KAHN, S.C., 780 North Water 20 Street, Milwaukee, Wisconsin 53202, by MR. DOUGLAS M. 21 POLAND, appeared on behalf of the Baldus Plaintiffs. 22 LAW OFFICES OF PETER EARLE, 839 North 23 Jefferson Street, Suite 300, Milwaukee, Wisconsin 53202, 24 by MR. PETER G. EARLE, appeared on behalf of the Voces de 25 la Frontera Plaintiffs.</p>
<p style="text-align: right;">Page 279</p> <p>1 A I don't know. 2 MR. HODAN: Objection, lack of 3 foundation. 4 THE WITNESS: I don't know what the 5 last one. 6 MR. EARLE: With that we'll end. 7 Thank you, Mr. Troupis. 8 THE WITNESS: Thank you. Is the trial 9 subpoena withdrawn so I can leave tomorrow? 10 MR. DAUGHTERY: Yes. I assume it's 11 withdrawn so -- 12 MR. EARLE: Yeah. 13 MR. DAUGHTERY: It's withdrawn, yes. 14 MR. HODAN: We have a seven-hour, when 15 did we start -- 16 THE VIDEOGRAPHER: This ends the video 17 deposition of James R. Troupis on February 22, 18 2012. The time 10:56 p.m. 19 (At 10:56 p.m. the deposition 20 concluded.) 21 22 23 24 25</p>	<p style="text-align: right;">Page 281</p> <p>1 REINHART, BOERNER, VAN DEUREN, S.C., 2 1000 North Water Street, Suite 2100, Milwaukee, Wisconsin 3 53202, by MR. PATRICK J. HODAN and MS. COLLEEN E. 4 FIELKOW, appeared on behalf of the Defendants. 5 WISCONSIN DEPARTMENT OF JUSTICE, 6 OFFICE OF THE ATTORNEY GENERAL, 17 West Main Street, P.O. 7 Box 7857, Madison, Wisconsin 53707-7857, by MS. MARIA S. 8 LAZAR, appeared on behalf of the Defendants. 9 WHYTE HIRSCHBOECK DUDEK S.C., 555 East 10 Wells Street, Suite 1900, Milwaukee, Wisconsin 53202, by 11 MR. DONALD A. DAUGHERTY, JR., appeared on behalf of the 12 Deponent. 13 TROUPIS LAW OFFICE LLC, 7609 Elmwood 14 Avenue, Suite 102, Middleton, Wisconsin 53562, by MR. 15 BRANDON LEWIS, appeared on behalf of the Deponent. 16 That said deponent, before 17 examination, was sworn to testify the truth, the whole 18 truth, and nothing but the truth relative to said cause. 19 That the foregoing is a full, true and 20 correct record of all the proceedings had in the matter 21 of the taking of said deposition, as reflected by my 22 23 24 25</p>

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1 original machine shorthand notes taken at said time and
2 place.

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6 _____
7 Notary Public in and for
8 the State of Wisconsin

9 Dated this 23rd day of February, 2012,

10 Milwaukee, Wisconsin.

11 My commission expires August 10, 2014.

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